

**BEFORE THE
FEDERAL MARITIME COMMISSION**

Docket No. 14-06

**SANTA FE DISCOUNT CRUISE PARKING, INC. d/b/a EZ
CRUISE PARKING; LIGHTHOUSE PARKING, INC.; and
SYLVIA ROBLEDO d/b/a 81st DOLPHIN PARKING**

Complainants

v.

**THE BOARD OF TRUSTEES OF THE GALVESTON
WHARVES and THE GALVESTON PORT FACILITIES
CORPORATION
Respondents**

**RESPONDENTS' REPLY TO COMPLAINANTS' RESPONSE TO MOTION TO
DISMISS BY THE BOARD OF TRUSTEES OF THE GALVESTON WHARVES AND
THE GALVESTON PORT FACILITIES CORPORATION**

COME NOW The Board of Trustees of the Galveston Wharves and The Galveston Port Facilities Corporation (collectively "Respondents"), by and through the undersigned, and subject to their Motion to Strike Complainants' Response previously filed herein, hereby files this Reply to Complainants' Response to Motion to Dismiss by the Board of Trustees of the Galveston Wharves and The Galveston Port Facilities Corporation.

Complainants admit in the opening of their response that the rates complained of in their original complaint are no longer in force. Instead, they now rely on a vague amended complaint – which has yet to be accepted for filing - to claim that the Commission should determine whether allegedly "unsubstantiated amounts charged by the Board of Trustees in its tariff are "rational" and are reasonably related to services they provide. To do so, they rely on provisions

of the Shipping Act that relate to common carriers, and not to marine terminal operators. This complaint and the level of Commission oversight demanded by Complainants are unprecedented. They also apparently ignore the portion of 46 U.S.C. §411102(c) limiting that subsection to “receiving, handling, storing, or delivering property,” and seek to create a blanket, actionable claim for unjust and unreasonable regulations and practices which does not exist under the Shipping Act.

A. Standard of Review Regarding Dismissing Original Complaint.

Complainants argue that Respondent’s Motion to Dismiss should be treated as if the equivalent of a Federal Rule 12(b)(6) facial challenges to their pleadings. This is incorrect. “Mootness” pertains to a federal court’s subject-matter jurisdiction under Article III. Therefore, it is properly raised in a Motion to Dismiss under Federal Rule of Civil Procedure 12(b)(1), not Rule 12(b)(6). Under Rule 12(b)(1), jurisdictional attacks can be either facial or factual. *White v. Lee*, 227 F.3d 1214, 1242 (9th Cir. 2000); *Tecle v. Dept. of Homeland Security*, 2014 WL 652307 (W.D. Tex. 2014); *Stone v. Walgreen Co.*, 2014 WL 1289470 (S.D. Cal. 2014). Respondents’ Motion is clearly a factual challenge. Therefore, Complainants’ authorities and arguments regarding Rule 12(b) (6) do not apply).¹

A mootness claim by its nature involves a review of facts. In this type of review the Commission must distinguish between a “facial attack” and a “factual attack.” *Osborn v. United States*, 918 F.2d 724, 729 n.6 (8th Cir. 1990) (quoting *Mortensen v. First Fed. Sav. and Loan Ass’n*, 549 F.2d 884, 891 (3d Cir. 1977). In a facial attack, the Commission, as would a court,

¹ Complainants cite *The Lake Charles Harbor & Terminal Dist. v. West Cameron Port, Harbor & Terminal Dist.*, 2007 WL 2468431 (FMC 2007, but completely ignore its discussion of Rule 12(b)(1), stating only the principles relevant to Rule 12(b)(6). Moreover, Complainants’ citation to *Cargo One, Inc. v. Cosco Container Lines Co., Ltd.* (FMC Docket No. 99-24, October 31, 2000 Order) is not on point and grossly overstates the showing required of Complainants. That case concerned alleged violations of Section 10(b) of the Act against a common carrier, and not the more limited remedies available to Complainants herein.

“restricts itself to the face of the pleadings, and the non-moving party receives the same protections as it would defending against a motion brought under Rule 12(b)(6).” *Id.* “In a factual attack, the Commission, as would a court, considers matters outside the pleadings, and the non-moving party does not have the benefit of 12(b)(6) safeguards.” *Id.* Complainants, as the party asserting subject matter jurisdiction, bear the burden of proof thereof. *Great Rivers Habitat Alliance v. FEMA*, 615 F.3d 985, 988 (8th Cir. 2010). In this case, factual issues have been presented which go beyond the pleadings and establish that Complainants’ claims are moot.

B. Complainants do not have a justiciable claim under the Shipping Act of 1984.

In an attempt to demonstrate a justiciable claim under the Shipping Act, Complainants rely upon newly raised facts not in evidence, interpret their own original Complaint very loosely.² In their original Complaint, they complained that Respondents violated the Shipping Act by increasing the monthly Access Fee for Off-Port Parking Users from \$8.00 Per-Space/Per-Month to \$28.88 Per-Space/Per-Month. They claimed the *increases* were discriminatory when compared to the increases for persons paying Access Fees on a “per trip” basis.³ Now that this claim has been rendered moot by the Tariff amendment, Complainants now challenge Respondents’ ability to assess access fees at all.⁴ Complainants never made this claim in their original Complaint. They may not assert it now, for the first time, to retroactively invent a claim

² In their Response, Complainants rely upon an unauthenticated “transcript” of Respondent Board of Trustees for the Galveston Wharves’ September 22, 2014, Meeting. This transcript conveniently omits a lengthy discussion between Complainant Lighthouse Parking and The Board of Trustees (*See* Pages 8-10 of the Minutes from The Board of Trustees for the Galveston Wharves’ September 22, 2014, meeting, included in Exhibit B to Respondents’ Reply). Complainants also “copied and pasted” the allegations in their Amended Complaint into their Response, in an effort to demonstrate that they still have a cause of action under their Original Complaint. This Commission has yet to rule on Complainants’ request to amend their Complaint and as such, the only relevant pleading in deciding Respondents’ Motion to Dismiss is Complainants’ Original Verified Complaint. Knowing this, Complainants often quote their original Complaint out of context in order to reflect the allegations contained in their Amended Complaint.

³ *See* Verified Complaint, pgs. 10-12, 15, 17, 23 & 26.

⁴ *See* Complainants’ Response at Pg. 6.

in order to avoid dismissal. Regardless, this claim is untenable under the Shipping Act and Commission standards.⁵

C. Respondents have repeatedly negotiated with Complainants regarding the assessment of Access Fees.

Complainants' Response also accuses Respondents of engaging in "bullying" tactics. These allegations have not been previously pled and are unfounded. As previously stated, a refusal to deal or negotiate under the Shipping Act is established when a marine terminal operator refuses to consider a bona fide offer from an offeror without justification. *Canaveral Port Authority – Possible Violations of Section 10(b) (10), Unreasonable Refusal to Deal or Negotiate*, 29 S.R.R. 1436 (2003). Over the past nine years, Complainants have met with Port personnel on countless occasions to discuss the assessment of access fees.⁶ In fact, the flat fee Per-Space/Per-Month assessment was in fact implemented at Complainants' request.⁷ Additionally, Complainants regularly attended, and continue to attend, Respondents' public monthly meetings.⁸ During these meetings, Complainants have made their positions abundantly clear and have actively participated in discussions with various Board of Trustees members.⁹ Complainants' assertions that Respondents have refused to negotiate are without merit. Additionally, their blanket statement that waiver and estoppel can never apply is completely outside of the authorities they cite.

⁵ As an example, 46 U.S.C. §41102(c) requires the establishment and enforcement of just and reasonable regulations and practices *relating to or connected with receiving, handling or delivering property*. Complainants ask the Commission to simply disregard the last (italicized) portion of the statute, to find that the tariff is "unreasonable," "irrational" or otherwise unsupported. This case does not involve receiving, handling or delivering property. Thus, Complainants seek much broader relief which Congress has never authorized.

⁶ See Correspondence between Respondents and Complainants, attached herein as Exhibit A. Upon information and belief, Complainant EZ Cruise Parking's owner Cynthia Hayes has also kept a notebook detailing such dealings with Respondents, as is referenced by her husband Charles Tompkins in his January 24, 2011, email to Financial Director Mark Murchison.

⁷ See July 19, 2006, letter from Deputy Port Director Michael J. Mierzwa to Cynthia Hayes included in the Correspondence between Respondents and Complainants, attached herein as Exhibit A.

⁸ See Compilation of Minutes from Monthly Meetings of the Board of Trustees for the Galveston Wharves, attached herein as Exhibit B.

⁹ *Id.*

In an attempt to save their refusal to negotiate cause of action, Complainants accuse Respondents of “purposefully and wrongfully allocat[ing] certain costs and expenses against the Cruise Terminal’s revenue flow to show a loss that would support raising their Tariff for access fees to generate revenue to pay for another cruise terminal.”¹⁰ Moreover, they make the preposterous claim that Access Fees charged to access the Cruise Terminal may not be charged or used to help pay for a new cruise terminal. Complainants offer no authorities or evidence to support these allegations. In any event, the Shipping Act does not provide a remedy for tariff fees that are subjectively believed to be “too high,” or do not meet a user’s sense of propriety, as long as those fees are not applied in a disparate fashion.¹¹

D. Complainants have not been subjected to disparate treatment under the amended tariff.

Complainants contend that Respondents’ distinction between their shuttles and taxicabs has resulted in disparate treatment and has established a fact issue which warrants additional discovery. Complainants fail to realize that their shuttles are assessed access fees differently from taxicabs because their shuttles are not similarly situated. Complainants’ shuttle buses are not taxicabs under the definition of the City of Galveston’s Code, just as they are not railroad cars, ships or barges. As such it is reasonable for taxicabs, which are not similarly situated with Complainants’ shuttles, to be assessed differently.

Furthermore, taxicabs are not Off-Port Parking Users under the definition of the tariff.

The amended tariff defines “Off-Port Parking Users” as follows:

¹⁰ See Complainants’ Response at Pg. 14.

¹¹ 46 U.S.C. 41102(c) requires “...just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property.” As noted above, this case does not involve “property.” As a result, Complainants rely on a non-existent statute which apparently requires “just and reasonable regulations and practices” for everything, and provides a cause action for perceived violations thereof. No such statute exists.

(12) **OFF-PORT PARKING USER** means a commercial business entity which provides or arranges for one or more commercial passenger vehicles, courtesy vehicles, buses or shuttles, however owned or operated, to pick up or drop off passengers within a terminal complex of the Galveston Wharves in connection with the operations of a business of the user involving the parking of motor vehicles of any type at a facility located outside of the boundaries of property owned, operated or controlled by the Galveston Wharves.¹²

Complainants access Respondents' property with their shuttles in connection with picking up and dropping off passengers that park at their parking lot facility. As such, Complainants are subject to an Access Fee. Taxicabs are vehicles for hire that access Respondents' property in connection with picking up and dropping off fares. Taxicabs are not "Off-Port Parking Users" because their access to Respondents' property is not "in connection with the operations of a business of the user involving the parking of motor vehicles of any type at a facility."

E. Even if Such a Claim Could Be Raised Under these Facts, the Access Fees assessed against Complainants are reasonably related to the services provided to Complainants.

As noted previously, the Commission does not have the jurisdiction to set rates. It can only review alleged violations in the setting of those rates. Complainants' "reasonably related" claim cannot apply to the access fees in question as a matter of law, because they do not involve handling property. Regardless, the applicable test for determining whether a rate or charge is reasonable is the test stated by the Supreme Court in *Volkswagenwerk v. Federal Maritime Commission*, 390 U.S. 261 (1968). The Court in that case held that a charge is reasonable when it is reasonably related to the service rendered. The Court did not hold that a charge must have a mathematical relationship to the cost of providing the service in order to be reasonable, but rather held that the relationship of charge and service must be capable of being understood. In this case there is no dispute that Complainants are being charged a fee to be allowed special access to the

¹² See Board of Trustees of the Galveston Wharves Tariff Circular No. 6, Section 100 (emphasis added)

cruise terminal for unloading passengers. Complainants' use of this special access is entirely voluntary on Complainant's part. They don't have to use it if they don't choose to do so. They can let passengers off at the entry areas designated by the Port for public access. Instead, Complainants want to avail themselves of the special areas designated by the Port for shuttles and buses. These areas require security and maintenance. The overall terminal itself must be maintained as well. There is a rational relationship between the fees charged and the access granted. This is sufficient.

Complainants are now attempting to hold Respondents' liable for a "bad deal" that they negotiated and asked for. This Commission has held that it is "not responsible for ensuring that everybody makes a good deal—just that the commercial environment is not hampered by unreasonable or unjustly discriminatory practices. *Ceres Marine Terminals, Inc v. Maryland Port Administration*, FMC No. 94-01, Order at 55 (FMC August 15, 2001). Respondents have repeatedly negotiated with Complainants over the years. In fact, the previous Per-Space/Per-Month assessment was based upon recommendations from Complainants. Now Complaints have brought an action against Respondents complaining of unjust and discriminatory treatment under the Shipping Act. While Complainants may not agree with the amount and manner of the Access Fees assessed, they are by no means unjust or discriminatory under the Shipping Act.

Respondents assess Access Fees against ground transportation companies that access the Cruise Ship Terminal Complex. The new tariff assesses those rates uniformly. Without a tax base and a declining overall market share from which to draw revenues, these access fees are essential to funding the security, maintenance, and repairs necessary to run the Cruise Ship Terminal Complex.¹³ Complainants have built a business based upon Respondents' cruise ship operation. In furtherance of Complainants' business, Respondents have built a designated area

¹³ See Affidavit of Mike Mierzwa, Paragraph 9, attached to Respondents' Motion to Dismiss.

for them to safely and efficiently drop off passengers without having to wait in the long line generated by the general public. Under the amended tariff, Access Fees will be assessed based upon the number of times an “Off-Port Parking User” accesses the Cruise Ship Terminal Complex and thus benefit more from the facilities and services provided by Respondents, and will bear a higher cost than those that access Respondents’ facilities less frequently.

At the end of the day, Complainants have built parking lot businesses to take advantage of the Port’s cruise passenger business. Without a terminal, they would have no business. Operating the Port and its cruise terminal costs money. Complainants essentially want to have their cake, and eat it too – they don’t want to pay access fees but want the business the terminal brings them.

F. Complainants Are Out of Time To Complain about the Pre-May 2014 Tariff.

Complainants also seem to suggest that they can now amend their complaint to include the same claims with regard to the tariff that was in place prior to May 2014, when they were charged \$8 per space per month. That tariff, as noted in the pleadings and evidence, had been in existence for over three years. Complainants admit in their pleadings that they paid under that tariff for over three years. Any such complaint is barred by limitations. 46 U.S.C. 41301(a).

CONCLUSION

Complainants’ claims in this proceeding have been rendered moot by the amendment of the Tariff. Under the Board of Trustees’ Tariff Circular No. 6, Item No. 111, all persons entering Port property for commercial purposes are assessed access fees the same way, on a per trip basis based upon usage of Port facilities.

WHEREFORE, PREMISES CONSIDERED, Respondents pray that the Complainant in this proceeding be resolved as follows:

1. The Complainants take nothing on their Complaint filed herein;
2. The Complaint to be dismissed as to both Respondents.
3. For such other and further relief as the Commission may deem just and proper.

Dated: November 17, 2014

Respectfully submitted,

McLeod, Alexander, Powel & Apffel, P.C.

By: 

Anthony P. Brown
Texas State Bar No. 03091300
Tex. S.D. Id No. 7185
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Galveston, Texas 77553
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Fax: 409-762-1155

ATTORNEYS FOR THE BOARD OF TRUSTEES
OF THE GALVESTON WHARVES

CERTIFICATE OF SERVICE

I hereby certify that on the 17 day of November, 2014, a copy of the foregoing document was served by electronic mail and certified United States mail, return receipt requested on Complainants' counsel of record.

Douglas T. Gilman
Gilman & Allison, LLP
2005 Cullen Blvd.
Pearland, Texas 77581
dgilman@gilmanallison.com
ballison@gilmanallison.com

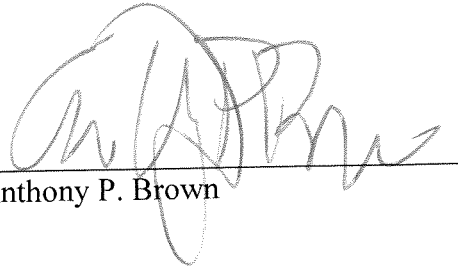

Anthony P. Brown

EXHIBIT A

July 19, 2006

Ms. Cynthia Hayes
EZ Cruise Parking
2109 Postoffice Street #162
Galveston, Texas 77550

Dear Ms. Hayes:

Thank you for meeting with us on May 25 and again on June 26 to discuss access fees. Your efforts to resolve this issue are appreciated. However, two items in your letter of June 14 must be addressed. First, the \$20,000 agreed upon to satisfy *all* outstanding Port Access fees accrued by EZ Cruise Parking from January 2005 to March 2006 is not entirely correct. The figure discussed at our May 26 meeting was for access fees directly attributable to EZ Cruise Parking, i.e. your shuttle van and other transportation used to bring your customers to the cruise terminal. This amount did not account for access fees due from Galveston Limousine for parking lot shuttle services to the cruise terminal provided to your company during this time period.

At the meeting, you expressed a desire to resolve the issue of the Galveston Limousine fees charged to your company and that you were disputing the number of trips provided by them during this time period. The Port agreed to this and was willing to use your numbers and charge you directly for this so you would not have to negotiate with Galveston Limousine on the payment of these fees to the Port. This was the reason you provided your Galveston Limousine numbers to the Port included in your May 25 letter.

The attached spreadsheet indicates the trips made by EZ Cruise Parking from January 2005 through March 2006 and applies the discount discussed at the May 25 meeting. This is the basis of the \$20,000 fee agreed to at that meeting. The two rightmost columns of the spreadsheet display the trips made by Galveston Limousine for your operation. In one column, the numbers provided by you were used. In addition, the Port also received numbers directly from Galveston Limousine on the number of trips they provided to you. These numbers are also displayed. Using the total trip numbers for the period provided from Galveston Limousine, which are lower than those provided by you, an outstanding balance of \$48,080 is owed to the Port for shuttle services supporting your operation. The Port is not aware of your arrangement with Galveston Limousine regarding the payment of these fees. However, this matter must be resolved.

The second issue concerns the payment of a flat monthly fee in lieu of trip charges. The Port of Galveston Tariff Circular No. 6, which specifies charges for all Port related activities, indicates the \$10 per trip fee. The tariff cannot be changed without approval of the Board of Trustees of the Galveston Wharves. However, we understand your longstanding desire for a flat monthly fee. A formula for determining a monthly fee must be developed that is equitable for all Port users while providing appropriate revenue to the Port. This revenue is necessary to offset the rising costs of security and defray the costs incurred by the Port to provide the improvements necessary to attract cruise lines to Galveston. Your counterproposal of a flat monthly fee of

\$1,200 is not acceptable. This is especially true upon review of the data provided by you and your service provider that indicates the average monthly access charge attributable to your business is over \$4,000. The Port may be willing to consider a sliding scale that would permit a discount to those heavy users of the Port, like your business, after a certain number of trips during a month and a possible maximum cap on the monthly charge. This does not provide the flat fee that you desired but would stipulate a maximum amount that you could use in developing your operating budget. It also would provide us a consistent means of dealing with other users of the Port that have expressed a desire for a monthly fee. This possible amendment to the tariff will be discussed with the Trustees at the August Board meeting. Until that time, the current fee schedule remains in place.

Please contact the Port's Director of Finance, Mr. Wayne Byrd, at 766-6146 to set up a payment schedule to pay these outstanding charges of \$68,080 and any additional charges that have accrued since March 2006. Also, contact Mr. Bernie Curran at 766-6183 to renew your 2006 Port Use Permit and vehicle decals if you have not done so already. Failure to have a payment plan and a current Port Use Permit and decals in place by August 15 will result in the denial of access to Port property for your operation.

Thank you for your attention to this matter. Please feel free to contact me at 766-6113 on any of the issues in this letter.

Sincerely,

Michael J. Mierzwa
Deputy Port Director

cc: Steven M. Cernak, Port Director
Wayne Byrd, Director of Finance
Bernie Curran, Director of Administration
John Peterlin, Senior director of Marketing and Administration

From: <cethouston@yahoo.com>
To: "Mark Murchison" <mmurchison@portofgalveston.com>
Sent: Tuesday, January 25, 2011 4:38 PM
Subject: [POG Mail Restored] Re: Santa Fe Discount Cruise Parking
Thank you.

Sent from my Verizon Wireless Phone

Kind Regards,
Charles Tompkins
Cell - 713.545.5935

----- Reply message -----

From: "Mark Murchison" <mmurchison@portofgalveston.com>
Date: Tue, Jan 25, 2011 3:30 pm
Subject: Santa Fe Discount Cruise Parking
To: "cethouston@yahoo.com" <cethouston@yahoo.com>

Confirming meeting at the office of Port of Galveston at 1:00 Wednesday 1/26/2011. Mark Murchison

Mark Murchison
Financial Director
Port of Galveston
409-766-6146
Cell 1 409-739-3520
Cell 2 979-255.3537
mmurchison@portofgalveston.com

From: cethouston@yahoo.com [mailto:cethouston@yahoo.com]
Sent: Monday, January 24, 2011 12:37 AM
To: Mark Murchison
Subject: Re: Santa Fe Discount Cruise Parking

Mark,

I have been reviewing Ms. Hayes documentation since early yesterday and am still confirming her financial documentations. She has kept nearly every notebook, pay stub, financial AP, newspaper clipping, etc. regarding the Port of Galveston and the people she has dealt with. She is still sending me information dug up in her attic as we speak.

I believe you and I will have all the information we will need to wrap this up quickly. And I will be glad to get this off my plate.

Sent from my Verizon Wireless Phone

Kind Regards,
Charles Tompkins
Cell - 713.545.5935

----- Reply message -----

From: "Mark Murchison" <mmurchison@portofgalveston.com>
Date: Sat, Jan 22, 2011 5:11 am
Subject: Santa Fe Discount Cruise Parking
To: "'cethouston@yahoo.com'" <cethouston@yahoo.com>

Let's try 1. We can do a working session and get to a number then work through issues

From: cethouston@yahoo.com <cethouston@yahoo.com>
To: Mark Murchison
Sent: Fri Jan 21 23:38:01 2011
Subject: Re: Santa Fe Discount Cruise Parking

I am reviewing as we speak. I will be finished by the end of the weekend. You will have what I have and that should be, along with what you have, sufficient enough to put all the pieces of the puzzle together.

Let's please shoot for Wednesday at 1:00 PM or 3:00 PM, whichever is more convenient.

Sent from my Verizon Wireless Phone

Kind Regards,
Charles Tompkins
Cell - 713.545.5935

----- Reply message -----

From: "Mark Murchison" <mmurchison@portofgalveston.com>
Date: Fri, Jan 21, 2011 9:46 pm
Subject: Santa Fe Discount Cruise Parking
To: "cethouston@yahoo.com" <cethouston@yahoo.com>

Send over as soon as possible on Monday. I will call on Monday and set up an agreeable time for Tuesday or Wednesday. Suggested time?

Mark Murchison
Financial Director
Port of Galveston
409-766-6146
Cell 1 409-739-3520
Cell 2 979-255.3537
mmurchison@portofgalveston.com

From: cethouston@yahoo.com [mailto:cethouston@yahoo.com]
Sent: Friday, January 21, 2011 5:19 PM
To: Mark Murchison
Subject: Re: Santa Fe Discount Cruise Parking

Will do. Have a great weekend. Relax, and enjoy. Charles

Sent from my Verizon Wireless Phone

Kind Regards,
Charles Tompkins
Cell - 713.545.5935

----- Reply message -----

From: "Mark Murchison" <mmurchison@portofgalveston.com>
Date: Fri, Jan 21, 2011 3:46 pm
Subject: Santa Fe Discount Cruise Parking

To: "Charles Tompkins" <cethouston@yahoo.com>

Please forward. Also if you have any documentation concerning non-billing while closed due to Ike please send along with certification of the period actually closed due to Ike.

Mark Murchison
Financial Director
Port of Galveston
409-766-6146
Cell 1 409-739-3520
Cell 2 979-255.3537
mmurchison@portofgalveston.com

From: Charles Tompkins [mailto:cethouston@yahoo.com]
Sent: Friday, January 21, 2011 3:20 PM
To: Mark Murchison
Subject: Santa Fe Discount Cruise Parking

Mark,

I just received a listing, from Ms. Hayes, of every bill ever payed to the Port of Galveston by her company. Let me know if you would like me to forward this to you.

Kind Regards,

Charles Tompkins

From: <cethouston@yahoo.com>
To: "Mark Murchison" <mmurchison@portofgalveston.com>
Sent: Friday, April 15, 2011 7:29 AM
Subject: Re: resolution of disputed amounts
Thank you Mark.

We are thinking that monday morning would be the best time.

Please call me. I would like to briefly discuss. I just left you a message on your cell phone. 713.834.7857.

charles tompkins

Sent from my Verizon Wireless Phone

----- Reply message -----

From: "Mark Murchison" <mmurchison@portofgalveston.com>
Date: Thu, Apr 14, 2011 3:24 pm
Subject: resolution of disputed amounts
To: "Charles Tompkins (cethouston@yahoo.com)" <cethouston@yahoo.com>, "manager@ezcruisepricing.com" <manager@ezcruisepricing.com>

Charles, Cynthia:

I have gotten past year end and annual reports and would like to have a meeting which I believe we can finally resolve the issues around lot 2. I propose we do this as 2 issues. First reach agreement on past then agree on how lot 2 will be treated in the future. I have a board meeting one week from today on Thursday April 21, 2011 and would like to go into it and say this matter is resolved. To do so I would need to meet with the two of you late Friday 4/15 or on Monday 4/18 or Tuesday 4/19. I have a commitment on Monday between 11 am and 2 pm. Charles I changed phones and cannot access your number so if you need to reach me call on Port cell number 409.739.3520. I will be in a meeting beginning at 3:30 today and I am not sure when it will be over. I should be available after 7 pm tonight via phone. Thanks, Mark.

Mark Murchison
Financial Director
Port of Galveston
409-766-6146
Cell 1 409-739-3520
Cell 2 979-255.3537
mmurchison@portofgalveston.com<mailto:mmurchison@portofgalveston.com>

EXHIBIT B

**PORT OF GALVESTON
REQUEST FOR DISCUSSION AND
TRUSTEES ACTION**

**MINUTES
ITEM – B-1**

PREPARED BY: Michael J. Mierzwa Port Director June 10, 2014

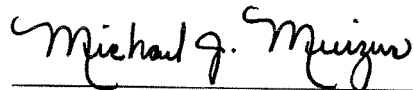
SUBJECT: Minutes – Regular Monthly Meeting of the Board of Trustees held Monday, May 19, 2014

BACKGROUND: Attached are the minutes from the Regular Monthly Meeting of the Board of Trustees held Monday, May 19, 2014.

ADDITIONAL INFORMATION ATTACHED: No _____ Yes x

RECOMMENDATIONS: Port staff respectfully requests Board approval of the minutes from the Regular Monthly Meeting of the Board of Trustees held Monday, May 19, 2014.

Respectfully Submitted By:



Michael J. Mierzwa, Port Director

DATE ACTION TAKEN: _____

Approved: _____
Disapproved: _____
Deferred To: _____
Incorporated into Minutes: _____

Motion By: _____
Seconded By: _____
Unanimous: Yes _____ No _____
By: _____

**Minutes of the Regular Monthly Meeting of the
Board of Trustees of the Galveston Wharves
Monday, May 19, 2014**

Minutes of the Regular Monthly Meeting of the Board of Trustees of the Galveston Wharves held Monday, May 19, 2014 in the offices of the Port of Galveston on the 8th Floor of the Shearn Moody Plaza, 123 Rosenberg, Galveston, Texas.

Chairman Holland called the meeting to order at 9:10 a.m., Monday, May 19, 2014.

The Secretary to the Board called roll. Chairman Holland announced that a quorum of the Board of Trustees was present.

Presiding Officer: Benjamin F. Holland, Jr., Chairman, Board of Trustees

Present:	Chairman Benjamin F. Holland, Jr.	Vice Chair Edward J. Walsh, III
	Trustee Richard D. DeVries	Trustee/Councilman Rusty Legg
	Trustee Albert P. Shannon	Trustee John A. Smecca
	Trustee Gerald A. Sullivan	

Others:	Michael J. Mierzwa	Hulse Wagner
	Peter Simons	John G. Peterlin, III
	Bernard A. Curran	Roger R. Quiroga
	Mark Murchison	Robert Pierce
	Diane Falcioni	Cristina Galego
	Angie Ramirez	
	Judy K. Espone	

Visitors:	Bob Arroyave	News Media
	George Templeton	John Banse
	Bryan Bradley	Russ Herring
	Cindy Tompkins	Charles Tompkins
	Sylvia Robledo	Jason Hayes
	John Machol	Jerry Rice
	John Jensen	Gino Vaiani
	Herb Foreman	Gary Myers

Chairman Holland called for the declaration of conflicts of interest. No conflicts were voiced at this meeting.

Chairman Holland noted that he had received a few requests to address the Board, and called first on John Jensen, reminding everyone of the three-minute time stipulation for those addressing the Trustees under Presentations and Announcements.

Mr. Jensen stated that he is the owner of Galveston Park and Cruise. Mr. Jensen understood that there was an issue, or some concerns, about the traffic going back and forth across Harborside at 25th Street. Mr. Jensen stated that he met with Chief Pierce last

Friday and discussed with him some items that might help to alleviate those concerns. Mr. Jensen continued, stating that he took it upon himself to hire Constable Clint Wayne Brown to help with the traffic on 25th and Harborside, and that seems to be working out well. Constable Brown has gotten traffic to slow down, and the Constable makes sure that people are getting across the street safely. Mr. Jensen stated that we all want the same thing. We all want our customers and people coming to Galveston to have a memorable, safe and pleasant time. Mr. Jensen stated that he did have some additional ideas, and that he would be happy to meet with Mr. Simons when he has time to sit down and go over his ideas and safety issues in an effort to take care of the people crossing at 25th and Harborside Drive.

Chairman Holland replied that the Port's number one issue is the liability to the City and the Port and the prevention of anyone getting hurt crossing the street there. Chairman Holland stated that the Board did not plan to take any action today, but the Trustees are going to sit down with City Council to see what their thoughts are on these issues. The Board is not out to hurt anybody, but the Trustees want to make certain that whatever we do the Port and/or the City will not be liable for anything that happens, and that no one gets hurt crossing the street at 25th and Harborside. The Port is planning on building a third cruise ship terminal and it will get very crowded on 25th Street, so the Board is going to look at this to see how we can make it better. The Trustees are just trying to do what is right for the City, the Port and for Mr. Jensen to prevent anyone from having an unfortunate accident in that area. Chairman Holland thanked Mr. Jensen, stating that he appreciated his comments.

Chairman Holland next called for Mr. John Banse, who stated that he would pass his time to address the Trustees.

Chairman Holland next called Charles Tompkins. Mr. Tompkins thanked the Trustees for the opportunity to speak. Mr. Tompkins stated that this was the first time that he has heard Mr. Jensen speak, and that he thought it was very admirable for Mr. Jensen to hire Constable Brown. Mr. Tompkins believed that Constable Brown will make a significant difference in that area, and that it is the best thing to do. Mr. Tompkins also stated that he believed that with Constable Brown at 25th and Harborside it would allow people to go and enjoy the comforts of the Strand and what the Strand has to offer.

Mr. Tompkins stated that there have been some suggestions from various members of the Board when they have met throughout the month on increasing parking revenue a fair share or a fair amount. Mr. Tompkins stated that the numbers that he is receiving or hearing about has the potential of increasing their monthly revenue space from \$8/space to upwards of nearly \$30/space – possibly between \$25 - \$30 – which Mr. Tompkins thought was a pretty substantial increase. Mr. Tompkins stated that he did his research and noted that he has never seen anyone, or never noticed anyone - when he did his research - he never found that any port did anything along these lines and never increased revenue for their parking spaces even remotely close to these amounts, for any reason. Mr. Tompkins thought that there had to be a reason for this, not just to pay for the expansion of the cruise terminal, or operational issues, or anything along those lines. Mr. Tompkins stated that the question is if the Trustees seriously considered the impact,

stating that he knew that some may say that if these cruise parking spaces, or these cruise parking companies, cannot make it, if they cannot survive when the Port makes the proposed increase, then so be it. Mr. Tompkins did not think that that is a reasonable solution or a responsible statement to make. Mr. Tompkins strongly suggested that the Port try and find a better way to bring in additional revenue, if for some reason that is what the Port wants to do, other than increasing these rates for these certain people.

Trustee DeVries referenced Mr. Tompkins's investigation comparing other ports, asking if he found any other ports that had to support themselves like the Port of Galveston does since the other ports are subsidized by taxes and bonds.

Mr. Tompkins responded that he did not do a comparative analysis between taxes and bonds, or an analogous comparison, but he did notice that no other port has ever set this up, but thought that that is a great question. Mr. Tompkins stated that when he was thinking about this, he thought that the Port has the Consumer Price Index standard that is followed through a checks and balances system, so to speak, in the Port's Tariff, so the Port can only make certain increases. Mr. Tompkins continued, stating that back in 2010, or whatever, the Port said that you are going to pay \$8/space and this is what we are going to agree on because we believe that it is an equitable fair share calculation, and each year, if for some reason we need to, we will increase "x" amount percentage. Mr. Tompkins stated that that would be about a 256% increase if we did this now. So, Mr. Tompkins stated, he was thinking back then that you guys were in the same position that you are now, asking if that was right. The Board responded no. Mr. Tompkins questioned if the Port sustained yourselves back then differently than you sustain yourselves now.

Chairman Holland responded that the Port has potential customers that want to come to the Port of Galveston, and the Port needs to build another cruise terminal. The Port does not have the money to build another cruise terminal, but we have to build it, and that will increase traffic for the parking folks, for the Port, and for everyone else. The Board must find a way to pay to build another cruise terminal, the Chairman stated. The Port has to generate revenue to pay for the terminal. Mr. Tompkins added – fairly. Chairman Holland responded that that is what the Board and Port staff is trying to do, and Chairman Holland believed that the Port has done that. Chairman Holland stated that if Mr. Tompkins would look at what is being discussed, the Port is doing this fairly. The Chairman continued, stating that what Mr. Tompkins has to realize is that he is talking about what the Port charges, but the parking folks do not charge anything near that. If the lots charged the same thing as the Port charged, then it would not cost the parking folks a penny more, but the problem is that the parking folks want to take parking away from the Port, and the Port needs parking to help pay for the cruise lines. Chairman Holland told Mr. Tompkins that the cruise passengers go to their parking facilities because they lower their prices. If the Port lowers our prices, the Chairman stated, then no one makes any money, and we will not be able to pay for another terminal, nor could we pay for the terminals the Port has now, and that is the big problem that the Port has. The dilemma is how does the Port continue to keep the cruises coming here, and how does the Port get the money to build another terminal to attract more cruise ship business to the Port. Another cruise terminal is something that we all in the community think is a great project,

Chairman Holland stated, but there are a lot of great projects, and you have to have the money to finance them.

Mr. Tompkins stated that the parking folks were not taking cargo away from the Port, but actually what they are doing is taking Port traffic – sending them downtown to the Strand and having them enjoy the Strand in Galveston, and helping Galveston to enjoy the economic impact of this business, and then have the cruise passengers go on their cruise and have a nice time. Mr. Tompkins stated that they do not sit there and re-route people to our certain areas just to bring them in, so he believed the Port's numbers were inaccurate.

Chairman Holland referenced the prices that Mr. Tompkins charges to lure the cruise folks to their facilities, and noted that people can go on the Strand even when they park across the street in the Port's lots – they can still walk to the Strand.

Mr. Tompkins questioned if that would be at 25th Street. Chairman Holland responded that they can walk anywhere they want. Mr. Tompkins questioned if 25th Street would be a good route. Chairman Holland stated that it may or may not be, it depends. If the Port puts a policeman out there, it may be, but if we don't, it may not be, but that is what the Port is working on. Mr. Tompkins thought that that was a great idea. Chairman Holland thought that there are some great ideas to be considered, and the Port has some great ideas, but it all takes money, and that is what the Port is trying to do here – to generate revenue to build more and more cruise business for the Port of Galveston. Unfortunately, the parking folks have to pay their share. Mr. Tompkins stated that he thought that they were paying their share.

Trustee DeVries stated that the answer to his question was that Mr. Tompkins did not find another port that could support themselves on their own revenue. Chairman Holland added that that is because there are none. Mr. Tompkins stated that he did not do a comparative analysis between ports. Trustee DeVries responded that he would not find one. Chairman Holland added that there is not another port that is self-sustained. Galveston is the only port that does not receive tax support.

Mr. Tompkins referenced parking, and stated that he did do an analysis on the ports that made a significant amount of revenue, and the amount of gross margins that they are making based on the revenue that they are bringing in, and he did not find any ports at all that made upwards of 10% or less on the amount of revenue that they generated.

Chairman Holland next called on Mr. George Templeton. Mr. Templeton stated that, with the Port's approval, he would like to donate his time to Mr. Tompkins. Chairman Holland and the Trustees allowed his request.

Trustee Sullivan questioned who Mr. Tompkins represented. Mr. Tompkins responded that he is married to Cindy, and that she works with one of the parking lots. Trustee Sullivan asked which parking group did they represent. Mr. Tompkins responded EZ Cruise.

Vice Chairman Walsh stated that Mr. Tompkins referenced in his original talk finding additional revenue sources that the Port could use to find the much needed revenue to build new facilities and operate the current facilities, and asked Mr. Tompkins exactly what were his ideas on that, and what was Mr. Tompkins referencing.

Mr. Tompkins responded that there was a time when he met with the Finance Committee, and Mr. Tompkins believed that Mr. Jensen had alluded to this as well, where we discussed several other ideas of bringing additional money in, or an additional increase of funds in, and questioned if Mr. Simons wants to come up and talk about that. Mr. Tompkins guessed that he could mention it, stating that you know that the hotels bring money in, and Mr. Tompkins believed that the Board was going to address the hotels, asking if that was correct. Vice Chairman Walsh responded that the Trustees were addressing the entirety of parking. Mr. Tompkins continued, stating that he believed that there was a Port Tariff, a substantial amount of...he guessed...which was a head tax that the Port receives from the cruise lines per passenger, asking if that was correct. Vice Chairman Walsh stated that there were passenger service fees that are set based on the contract that the Port has with the various cruise lines, and that the Port is already putting that money in. Mr. Tompkins stated that there were about three or four more things that they discussed, and Mr. Tompkins asked Mr. Simons if they could sit down outside of sessions to discuss them and maybe help you guys.

Trustee Sullivan asked that Mr. Tompkins give the Board an idea of what he is discussing, because the Trustees are ready to do something today. If Mr. Tompkins has something he wants to bring forward, Trustee Sullivan asked that Mr. Tompkins please do so now.

Mr. Tompkins responded that the number one thing that they had offered was the people who were coming to Galveston, so their main focus was not necessarily pushing the people to the Port, but pushing the people towards Galveston, and that is what they have done. Mr. Tompkins continued, stating that his group has met with the restaurant district and the Galveston Strand District to persuade them to give coupons to the cruise passengers to encourage them into the Port or the Strand areas. That was the number one thing that Mr. Tompkins and his group has focused on in the past, and Mr. Tompkins stated that he thought that Mr. Simons and some of the other Directors were trying to focus on additional ways to bring in revenue for the Port of Galveston.

Trustee Sullivan questioned Mr. Tompkins on how that would bring more revenue to the Port. Mr. Tompkins replied that the thing is for them, as an individual entity, to focus more towards bringing revenue to Galveston in general, as opposed to trying to find ways to subsidize additional lost revenues for the Port of Galveston, as that was not something on which they focused very heavily. Mr. Tompkins stated that he wanted to sit down and talk with the Port to find out if there were ways that they may be able to help.

Trustee Sullivan addressed Mr. Tompkins, stating that what he needed to understand is that what the Port is going through is not only the fact that the Port is building more facilities for another cruise ship to come in, or for multiple cruise ships to come in, but we also have to do maintenance. The Port just replaced the roof on Cruise Terminal No.

2. The Port is having to repair, or essentially rebuild, the bridge that goes over Harborside Drive to Cruise Terminal No. 1. As more cruise ships come in, and with the expenses the Port incurs, the Port will have to hire more policemen. The Port's expenses increase exponentially as the Port goes forward with more cruise ships. Mr. Tompkins asked....not proportionally. Trustee Sullivan clarified...exponentially. Mr. Tompkins asked for an example of how. Trustee Sullivan responded that for instance, when the Port has three cruise ships in at one time, asking the Port Director to correct him if he was wrong, the Port could have as many as 16,000 passengers. Mr. Mierzwa responded 24,000 people. The Chairman clarified – 12,000 passengers on and 12,000 passengers off. Trustee Sullivan stated that he did not even know where the Port was going to get the police, but that is one issue that the Port will have to solve. There is another problem that the Port has with people crossing Harborside Drive because it slows everything down. When we have the 24,000 people, we have passengers getting off of the cruise ships and the Port has the cruise passengers getting onto the cruise ships at the same time. So, exponentially it increases the Port's costs. Mr. Tompkins questioned if the Port will lose money as a result of the revenues brought in by the third cruise ship. Trustee Sullivan responded that if we are talking about on the cost side – yes. Trustee Sullivan continued, stating that he did not think that anyone on this Board is anti-parking. Mr. Tompkins questioned if Trustee Sullivan did not think that anyone is. Trustee Sullivan responded that he did not think so. Trustee Sullivan stated that what the Board is trying to do is to get the lots to pay what the Port has to pay. The Port is not against what Mr. Tompkins and his group is doing. Trustee Sullivan continued, stating that he is free enterprise, noting that his life-blood is free enterprise, and Trustee Sullivan stated that he understood that the parking lot folks pay taxes on their property. Mr. Tompkins stated that they have the same amount of revenue stream, and as new people come in they have to get new buses, and they have to maintain those buses, just as the Port has to maintain their fleet. Trustee Sullivan stated that all the Port wants is to have equity, and the Port needs it in order to move forward. Trustee Sullivan continued, stating that if the Port is out of the cruise ship business, he would guarantee that the parking lot people would also be out of business. Therefore, Trustee Sullivan stated that the parking lots have to pay what the Port is paying, noting that the Port and parking lots are paying the same share.

Mr. Tompkins stated that the Port has approximately 64% of the spaces that are dedicated specifically to the cruise terminal traffic, or somewhere around there, and asked if that was right. The Board acknowledged that that was correct. Mr. Tompkins continued, stating that the parking lot people are told that 100% of all of their spaces, regardless of whether they are spaces for their customers, spaces for themselves, spaces for their employees, the spaces that have x's on them or whatever, are going to be given to the Port and specifically allocated to what is potentially lost revenue or potential revenue. Mr. Tompkins thought that that was not fair at all. Mr. Tompkins stated that these guys are coming in, counting every single spot, even dangerous spots that are small, and saying that we can easily fit a car in those dangerous spaces. Mr. Tompkins stated that he disagreed, saying that the way we are going about this may not be the best way.

Chairman Holland asked Mr. Tompkins to hold on for a minute, stating that he understood that this was a very controversial issue, and a very important issue for the City, and the Chairman asked the Trustees if they minded if he would allow Mr.

Tompkins more than the three-minutes to address the Trustees. The Trustees had no objections.

Mr. Tompkins stated that as long as this is done in the right way, then he was all for it, and that he was not just someone that is down there trying to be a parasite off someone else – free enterprise, right! Mr. Tompkins continued, stating that if this increase is done the right way then he is all for it, but, if it is not done the right way, then he is not for it.

Trustee DeVries stated that he still has not heard what Mr. Tompkins thought was the right way, and Trustee DeVries added that if he recalled properly, when you addressed the Trustees once before, there were some areas where you felt parking lots that were not paying their fair share were not paying anything. Trustee DeVries questioned if Mr. Tompkins thought the Port should increase fees or not, because Trustee DeVries recalled Mr. Tompkins bringing that up the last time he addressed the Trustees.

Mr. Tompkins responded that he did, and stated that certainly, as long as everyone that might be benefiting from the cruises pays a certain amount, then he is all for that. Mr. Tompkins did not think that anyone should go without offering anything. Mr. Tompkins continued, stating that as this increases proportionately, at some point in time, because there are only four companies or so that the Port is hitting very, very hard – only four, and Mr. Tompkins stated that that is ridiculous, noting that there are dozens of companies that make a meaningful amount of revenue here on this island, and the Port should address them.

Trustee DeVries wanted to make certain that Mr. Tompkins, noting that Mr. Tompkins had previously mentioned being partners, understood that that is what the Board and staff have spent a lot of time on because the Port knows that we cannot park all of the cars in our parking lots, and we do need the parking lot folks, and we all need to partner. Trustee DeVries continued, stating that all the Port is looking for is being partners, as in a partnership, equally supporting the venture, and that is all that the Board is looking to do here.

Mr. Tompkins responded that if something is reasonable, that is fine, but if someone comes in and says well, you've got 100% of your spaces allocated to the Port of Galveston, then first of all, that would be wrong. Mr. Tompkins stated that they do not have 100% of their spaces allocated to the Port of Galveston.

Trustee DeVries stated that one other thing that was brought up in the Finance Committee Meeting is, and Mr. Murchison could probably explain this a little better, that the Port's portion of the parking spot revenue is 100% back into the Port, but the portion the private parking lots contribute of their parking lot revenue is not 100% back to the Port, so the Port is really contributing more than the private parking lots are contributing. Trustee DeVries continued, stating that all of the parking money goes into the expenses that we have. Mr. Tompkins responded sure, that he agreed.

Trustee Shannon questioned the parking rates at Mr. Tompkins lot, clarifying today, what are those rates. Mr. Tompkins asked Mr. Jason Hayes to respond to that question. Mr.

Hayes stated that the rates vary, but it is \$60 for seven days. Trustee Shannon questioned what kind of occupancy did they have last year on their parking. Mr. Hayes responded about 70% - minus the loss revenue because of the *Triumph*, so it would probably go down to 50%.

Chairman Holland added that they do vary their prices because he has seen that. Mr. Hayes responded no, if you go on line you will see that our prices are the same. Chairman Holland stated that he has seen sometimes where operators lower prices as the day goes on. Both Mr. Tompkins and Mr. Hayes responded no, that that is not them.

Mr. Tompkins stated that every \$5 is \$5 to gross market revenue out of their pocket. Mr. Tompkins stated that they try their best to maintain that as high as they can, because it is a service that they offer. Mr. Tompkins stated that they do not park someone there and then allow them to walk across, but that does not mean that we can't be driving them.

Chairman Holland stated that he believed that the Trustees have given more than enough time to this, and he really appreciated it. Chairman Holland said that we, as a staff, and you can tell because it has been on the agenda for four or five months, have worked very hard and diligently. The Board has had the Finance Committee look at this, and the Board and staff have tried to be as fair and equitable as they thought that it was absolutely necessary for them to be. Chairman Holland continued, stating that the Board's whole goal, when they were appointed to the Board of Trustees of the Galveston Wharves, was to take care of the Port of Galveston and to generate an industry that we do not have. The cruise ships have been a plus for all, including the parking lot operators. The Board and Port staff are going to protect this industry, and in order to do that, the Port must have revenue to continue to dredge the Channel, build new facilities, and to take care of the facilities that the Port now has. Chairman Holland stated that the Board and Port staff believe that we are putting together a fair and equitable operation and Tariff, and we are going to put that in, and if in fact the parking lot operators can show the Port differently, then the Port is not opposed to adjusting the Tariff downward, but until someone does show the Board differently, we know what we need, we know what we have agreed to, and we know what we have looked at, and the Chairman thought that everyone knows that this is fair and equitable. Chairman Holland wanted to make sure that Mr. Tompkins understood that. The Board thanked Mr. Tompkins for his address to the Trustees.

Chairman Holland called for a motion on the minutes of the Regular Monthly Meeting of the Board of Trustees held April 28, 2014. ***Vice Chairman Walsh moved for approval as distributed. Motion was seconded by Trustee Sullivan and carried, with Trustee DeVries abstaining from vote as he was not at the April 28th Board Meeting.***

Chairman Holland called for the Port Director's Report.

Mr. Mierzwa began by recapping the May 2014 financial and tonnage results, which were provided to the Trustees in their notebooks under the Port Director's Report for April 2014, noting that most of the financials were presented earlier in the Finance Committee Meeting. Mr. Mierzwa stated that in April the actual operating revenue was

PORT OF GALVESTON

BRIEFING

DISCUSS AND CONSIDER CHANGES TO GALVESTON WHARVES TARIFF CIRCULAR NO. 6 – OTHER LICENSES AND PERMITS, INCLUDING INCREASES TO THE DECAL AND ACCESS FEES FOR GROUND TRANSPORTATION COMPANIES ACCESSING THE CRUISE SHIP TERMINAL COMPLEX TO BE EFFECTIVE JULY 1, 2014

Background

Last year, the Board asked the Port Director to assess various issues related to the fees the Port charges operators of private parking lots and other companies that drop off and pick up customers at the Port's two cruise terminals. In response, the Port Director formed a study team. The team has briefed the Board on its progress several times over the past year. During the briefings, the Board asked the study team to gather additional information that would help them make a decision regarding the fee structure and the amounts assessed the various entities accessing the terminals.

Current Situation

The team has completed its work and recommends that the Board approve an increase in the fees.

Board of Trustees of the Galveston Wharves Tariff Circular No. 6 (Item No. 111 – “Other Licenses and Permits”) sets forth the guidelines for Port Use Permits. Entities desiring to use, or have their vehicles and operators enter on, Galveston Wharves property for commercial purposes must have a valid use permit issued by the Port Director pursuant to Item No. 111 of the tariff. To receive a permit, an applicant must pay an application fee, comply with certain liability and other insurance requirements and, in the case of commercial entities entering the cruise terminal complex, pay a decal and access fee. Some commercial entities pay the access fee on a per-trip basis and some pay the fee on a monthly basis.

The fees set forth in the tariff were established in August 2006 and have not been updated or amended since then. (There is a provision in the tariff for periodic adjustment of the fees.) Revenue generated by the current fees reflects a disproportionately low share of the cost of operating the cruise terminals forcing the Port to cover nearly the entire cost of operations. The study team believes that the fees in the tariff should be increased. The table that appears on the following page summarizes the proposed fee changes.

Category	Tariff Sec.	Decal Fee		Access Fee	
		Current	Proposed	Current	Proposed
Decal and Access Fees	Note C				
- Charter busses		-	-	\$50.00 ¹	\$60.00 ¹
- Commercial passenger vehicles (except busses) with seating capacity of 15 or more persons		\$10.00	\$25.00	\$20.00 ¹	\$30.00 ¹
- Commercial passenger vehicles (except busses) with seating capacity of fewer than 15 persons		\$10.00	\$15.00	\$10.00 ¹	\$20.00 ¹
- Taxicabs with City of Galveston permits		\$7.50	\$7.50	-	-
Off-Port Parking Users	Note D	\$10.00	\$15.00	\$8.00 ²	\$28.88 ²

Attached to this brief are two documents. The first is an annotated copy of Item No. 111 of the tariff. Changes recommended by the study team are indicated in red. The second document is a copy of the revised tariff item if the Board approves the study team's recommendations.

Fiscal Impact

The estimated fiscal impact of this recommendation is based on the number of Port Use Permit applications processed, the number of vehicle decals issued and the number of commercial vehicles accessing the cruise terminal complex in 2013. The estimated impact is also based on certain assumptions related to those numbers in 2014. On that basis, the projected annual increase in revenue associated with the proposed change to the tariff is \$430,000.

Staff Recommendation

The Board of Trustees is respectfully requested to listen to the briefing of the Port Director and staff and approve the proposed changes to the tariff.

Attachment

5/19/14

¹ Access fees paid by operators of charter busses and commercial passenger vehicles (such as airport and hotel shuttles) are assessed on a per-trip basis.

² Access fees paid by operators of off-port parking lots are assessed on a per-parking-lot-space, per-month basis.

ISSUED: NOVEMBER 21, 2013

EFFECTIVE: JANUARY 1, 2014

SECTION 100 - GENERAL INFORMATION, RULES AND REGULATIONS

APPLICATION

ITEM

OTHER LICENSES AND PERMITS

(C)(A)(I) 111

Port and Cruise Terminal Use and Parking Permits and Fees

Applications for Port Use Permits are to be submitted to the Galveston Wharves using Application Forms, which are available at the Offices of the Galveston Wharves.

An initial application fee and annual renewal fee are required for the following categories of business conducting activities on or in connection with the property of the Galveston Wharves:

1. Commercial Business Entities not operating under a Lease Agreement, Berthing Agreement, Operating Agreement, Operating or Terminal Services Agreement or Concession Agreement with the Galveston Wharves or the Galveston Port Facilities Corporation
Initial Application Fee: \$300.00 Annual Renewal Fee: \$75.00
2. Commercial Passenger Vehicle Service with more than two (2) vehicles providing access for people to the Galveston Wharves and the Cruise Ship Terminal Complex. (Not operated or controlled by or under contract for transportation services with the Galveston Wharves) (Notes A, C, D & E)
Initial Application Fee: \$300.00 Annual Renewal Fee: \$75.00
3. Commercial Passenger Vehicle Services with two (2) or fewer vehicles providing access for people to the Galveston Wharves and the Cruise Ship Terminal Complex. (Not operated or controlled by or under contract for transportation services with the Galveston Wharves) (Notes A, C, D & E)
Initial Application Fee: \$120.00 Annual Renewal Fee: \$50.00
4. Mobile Food and/or Merchandise Vendors
Initial Application Fee: \$120.00 Annual Renewal Fee: \$50.00
5. Common Carriers by Water of Passengers (Water Taxi Service)
Initial Application Fee: \$300.00 Annual Renewal Fee: \$75.00
6. Organizations performing Oil Waste, Bilge Water and Gray Water Removal Service
Initial Application Fee: \$300.00 Annual Renewal Fee: \$75.00
7. Organizations performing Sanitary and Solid Waste Removal Services
Initial Application Fee: \$300.00 Annual Renewal Fee: \$75.00
8. Organizations performing the Services of Line Handling for Vessels.
Initial Application Fee: \$300.00 Annual Renewal Fee: \$75.00
9. Persons Operating Pneumatic Trucks Handling Plastic Polymer Pellets
Initial Application Fee: \$300.00 Annual Renewal Fee: \$75.00

Item No. 111 continued on the next page.

ISSUED: NOVEMBER 21, 2013

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SECTION 100 - GENERAL INFORMATION, RULES AND REGULATIONS

APPLICATION

ITEM

In addition to the application and Port Use Permit fee, all applications must be accompanied by a Certificate of Insurance showing proof of insurance, not less than that required in Item 600 of this Tariff, and meeting all other requirements found in Item 600 of this Tariff, except as noted in "Note B", below. The Insured party must be the same name as the Applicant and the Taxpayer Identification registered with the Texas Secretary of State and the Texas Comptroller of Public Accounts for the named business entity. The City of Galveston and the Board of Trustees of the Galveston Wharves must also be named as "Additional Insureds" with Waiver of Subrogation.

Port Use Permits are to be issued for a period of one (1) year beginning January 1st and ending December 31st. New businesses requiring Port Use Permits within three months of the above expiration date will be issued such permits to extend the following year,

Note A. A separate Port Use Permit must be obtained for each of the business categories, named above, in which any business entity is engaged.

Note B. The following insurance requirements defined in the City of Galveston Ordinances, as may be amended from time to time, which are applicable to Commercial Vehicles for Hire, are incorporated into this Tariff Circular and apply to the respective types of vehicles referenced in the ordinance section heading (See also: www.cityofgalveston.org). The Port reserves the right to modify certain liability and other insurance requirements as deemed necessary based on a review of the applicant and type of business. License holders and Port Use Permit holders shall, in addition to the notice-to-the-City requirement in the City Ordinance, notify the Port in all instances in which the Ordinance requires notice to the City.

Sec. 35-54. Insurance-taxicabs.

Every holder of a license to operate a taxicab service pursuant to the provisions of this chapter shall maintain in full force and effect at all times a policy or policies of automobile liability and property damage insurance, with an insurance company or companies authorized to do business in Texas, covering each vehicle so used, in an amount not less than the minimum coverage required by state law. No taxicab permit shall be issued or renewed unless the applicant has obtained for the vehicle involved an automobile liability insurance policy with an insurance company or companies authorized to do business in Texas with minimum limits as prescribed pursuant to state law. The applicant prior to issuance or renewal of the permit shall furnish satisfactory proof of such coverage. Said policy shall contain a clause requiring thirty (30) days notice be given to the city prior to cancellation. If such notice of cancellation is given by the insurance company, the licensee shall obtain new insurance before meeting the requirements of this section prior to the expiration of the 30-day period; if the license fails to do so his permit shall be immediately revoked.
(Ord. No. 02-058, § 3, 6-27-02)

Item No. 111 continued on the next page.

ISSUED: NOVEMBER 21, 2013

EFFECTIVE: JANUARY 1, 2014

SECTION 100 - GENERAL INFORMATION, RULES AND REGULATIONS

APPLICATION

ITEM

Sec. 35-55. Insurance-limousines.

Every holder of a license to operate a limousine service pursuant to the provisions of this chapter shall maintain in full force and effect at all times a policy or policies of automobile liability and property damage insurance with an insurance company or companies authorized to do business in Texas, covering each vehicle so used, in an amount not less than five hundred thousand dollars (\$500,000.00) combined single limits. No limousine permit shall be issued or renewed unless the applicant has obtained for the vehicle involved an automobile liability insurance policy with an insurance company or companies authorized to do business in Texas with the required coverage. An applicant prior to the issuance or renewal of annual permit shall furnish satisfactory proof of such coverage. The holder shall furnish proof of such coverage by filing with the director a valid certificate of insurance, or in lieu thereof a true multiple original of any such policy. The policy shall contain a clause requiring thirty (30) days' notice be given to the city prior to cancellation. If the insurance company gives such notice of cancellation, the holder shall obtain new insurance before the expiration of the 30-day period; if the holder fails to do so his permit shall be immediately revoked.

(Ord. No. 02-058, § 3, 6-27-02)

Sec. 35-56. Insurance-buses and shuttles.

Every holder of a license to operate a bus or shuttle vehicle service pursuant to the provisions of this chapter shall maintain in full force and effect at all times a policy or policies of automobile liability and property damage insurance with an insurance company or companies authorized to do business in Texas, covering each vehicle so used, in an amount not less than five hundred thousand dollars (\$500,000.00) combined single limits. No bus or shuttle vehicle permit shall be issued or renewed unless the applicant has obtained for the vehicle involved an automobile liability insurance policy with an insurance company or companies authorized to do business in Texas with the required coverage. An applicant prior to the issuance or renewal of annual permit shall furnish satisfactory proof of such coverage. The holder shall furnish proof of such coverage by filing with the director a valid certificate of insurance, or in lieu thereof a true multiple original of any such policy. The policy shall contain a clause requiring thirty (30) days' notice be given to the city prior to cancellation. If the insurance company gives such notice of cancellation, the holder shall obtain new insurance before the expiration of the 30-day period; if the holder fails to do so his permit shall be immediately revoked.

(Ord. No. 02-058, § 3, 6-27-02)

Item No. 111 continued on the next page.

BOARD OF TRUSTEES
OF THE GALVESTON WHARVES

Tariff Circular No. 6

~~66th~~ Revised Page 3-F

ISSUED: ~~MAY 19, 2014~~ ~~DECEMBER 17, 2007~~

EFFECTIVE: ~~JULY 1, 2014~~ ~~DECEMBER 17, 2007~~

SECTION 100 – GENERAL INFORMATION, RULES AND REGULATIONS

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<p>Note C. In addition to the annual Port Use Permit fee, ground transportation companies, as defined herein, accessing Cruise Terminal 1/ Texas Cruise Ship Terminal on Galveston Island®, or Cruise Terminal 2 / Texas Cruise Ship Terminal at Pier 27, collectively the Cruise Ship Terminal Complex, shall be subject to the following decal and/or access fees for each vehicle that shall have such access:</p>	

<u>Type of Vehicle and Vehicle Seating Capacity:</u>	<u>Decal and Access Charge:</u>
<u>Charter Bus Owners and Operators</u>	<u>\$60.00 Parking Fee</u>
<u>Bus, Commercial Passenger Vehicle, or Courtesy Vehicle with Seating Capacity of greater than fifteen (15) persons</u>	<u>\$40.00 per decal per vehicle, annually and \$50.00 per Access/Trip</u>
<u>(**Except as noted in Notes D & E, below)</u>	

Comment [PS1]: Proposed increase FROM \$50 to \$60.

<u>Commercial Passenger Vehicle, Courtesy Vehicle, Shuttle or Limousine with Seating Capacity of fifteen (15) persons or more</u>	<u>\$40.00 per decal per vehicle annually and \$30.00 per Access / Trip</u>
<u>(**Except as noted in Notes D & E, below)</u>	

Comment [PS2]: Proposed increase in the decal (from \$10 to \$25) and access/trip (from \$20 to \$25) fees.

<u>Commercial Passenger Vehicle, Courtesy Vehicle, or Shuttle or Limousine with Seating Capacity of less than fifteen persons of up to fourteen (14) persons</u>	<u>\$10.00 per decal per vehicle, annually and \$20.00 per Access / Trip</u>
<u>(**Except as noted in Notes D & E, below)</u>	

<u>Limousine or Taxi and Taxicabs with Seating Capacity of nine (9) to fourteen (14) persons</u>	<u>\$10.00 per decal per vehicle, annually and \$10.00 per Access / Trip</u>
<u>(**Except as noted in Notes D & E, below)</u>	

Comment [PS3]: This category is deleted.

<u>Limousines with Seating Capacity of less not more than ten (10) eight (8) persons</u>	<u>\$10.00 per decal per vehicle, annually and \$10.00 per Access/ Trip</u>
<u>(**Except as noted in Notes D & E, below)</u>	

Comment [PS4]: This category goes away.

<u>Taxi and Taxicabs with City of Galveston permit Seating Capacity of not more than eight (8) persons</u>	<u>\$7.50 per decal per vehicle, annually</u>
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Comment [PS5]: No change.

Note D. Those Off-Port Parking Users, as defined herein, in operation and accessing the Texas Cruise Ship Terminal on Galveston Island®, or the Texas Cruise Ship Terminal at Pier 27, collectively the Cruise Ship Terminal Complex, as of August 15, 2008 shall, in lieu of the Access/ Trip fee, be subject to a monthly Access Fee equal to the amount of ~~\$28.00~~ per parking space located in the

Off-Port Parking User's parking facility, with number of billable parking spaces to be confirmed periodically by

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ISSUED: MAY 19, 2014~~DECEMBER 17, 2007~~

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1, 2014~~DECEMBER 17, 2007~~

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Note D.

~~the Galveston Wharves. The \$8.00 Access Fee will be effective on and after July 1, 2014 August 15, 2006. Commencing on August 15, 2011, the monthly Access Fee and will be subject to periodic adjustment by the Board of Trustees of the Galveston Wharves. In addition, Off-Port Parking Users shall pay a decal fee of \$15.00 per decal per shuttle annually, adjusted on that date and on each anniversary of such date (each an "Adjustment Date") to reflect increases in the Consumer Price Index for All Urban Consumers (CPI-U) for Houston-Galveston-Brazoria, Texas, All Items (1982-84 = 100) published by the Bureau of Labor Statistics of the United States Department of Labor (the "Index"). If the Index is converted to a different standard reference base or otherwise revised, the determination of the Index will be made with the use of such conversion factor, formula, or table for converting the Index as may be published by the agency or authority that establishes the Index or, if one is not published by such agency or authority, then with the use of such conversion factor, formula, or table as may be published by any nationally recognized publisher of similar statistical information. If the Index ceases to be published, then within 30 days after such Index ceases to be published the Wharves will substitute a new index of similar type to be used as the Index for determining future monthly Access Fee escalation. On each Adjustment Date, Access Fees will be recalculated to be equal to a number equal to the product of the Access Fee in effect the day before the Adjustment Date multiplied by a fraction, the numerator of which is the Index number for the last reporting period before the Adjustment Date and the denominator of which is the Index number for the last reporting period before (i) the Effective Date (with respect to the first adjustment of Access Fee) or (ii) the immediately preceding Adjustment Date (with respect to each subsequent adjustment), whichever is applicable. If the product is greater than the Access Fee in effect the day before the then current Adjustment Date, the Off-Port Parking User must pay the greater amount until the next Adjustment Date. Access Fee as calculated in this Tariff Item must never be less than the amount of the initial Access Fee set forth above. The Galveston Wharves will provide all Off-Port Parking Users to whom the Access Fee applies with notice of each adjustment to Access Fee and the calculation of the adjustment no later than 30 days prior to each Adjustment Date.~~

Note E.

Parking Fees - Those Charter Bus Owners and Operators, as defined herein, in operation and accessing the Texas Cruise Ship Terminal on Galveston Island®, or the Texas Cruise Ship Terminal at Pier 27, collectively the Cruise Ship Terminal Complex, as of July 1, 2014~~December 17, 2007~~ shall, in lieu of the payment of Initial Application and Renewal Fees for Port Use Permits, Decal Fees and/or the Access/ Trip fee, be subject to a Parking Fee equal to the amount of ~~\$5~~\$0.00 per each use of any bus parking space located

in the Cruise Ship Terminal Complex. Charter Bus Operators must provide sufficient advance notification to the Port, Attention of the Director of Administration, in advance of arrival at the Port to allow for review of the existence and sufficiency of the required insurance. Additionally, payment shall be made by check on arrival at the Cruise Ship Terminal Complex, unless prior acceptable payment arrangements have been made in advance with the Port.

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ISSUED: ~~MAY 19, 2014~~ DECEMBER 17, 2007

EFFECTIVE: JULY 1,

2014 ~~DECEMBER 17, 2007~~

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Payment of Fees:

Payment of fees for initial application for Port Use Permit and for renewal of Port Use Permits is due upon submission of the completed application for such permit in person, e-mail or by mail at the Administrative Offices of the Port of Galveston. Extension of Credit, issuance of invoices for payment of fees and payment of all fees other than application fees due to the Galveston Wharves will be made in accordance with the provisions of Section 100 of Tariff Circular No. 6, Items No. 192, 194, 196 and 198. Decals will be issued to the person at the time the application is delivered to the Port or mailed to Port Use Permit applicants, at the mailing address noted on the application, upon approval of the Port Use Permit application by the Galveston Wharves.

Suspension or Revocation of Port Use Permits will be in accordance with the terms of Item #112 of Tariff Circular No. 6, as it may be amended from time to time.

Definitions:

(1) **ACCESS** means to enter upon premises owned, operated or controlled by the Board of Trustees of the Galveston Wharves.

(2) **BILLABLE PARKING SPACES** means the number equal to the maximum parking capacity of the off-port parking user's lot.

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(32) **BUS** means a motor vehicle operated for commercial purposes that:
(A) has manufacturer's rated seating capacity of more than fifteen (15) passengers (including the driver); and
(B) is used for the transportation of people.

(43) **BUS SERVICE** means the business of offering or providing transportation of people for hire by bus, whether the fare is paid by individuals boarding the bus or by contract with or for a specified group or people, when:
(A) a driver or referral to a driver is furnished as part of the service; and
(B) the service is offered either as a charter bus service or a special bus service.

(54) **CHARTER BUS SERVICE** means a bus service for the transport of people belonging to a specified group that is offered only upon a prearranged basis, the prearrangement being made at least one hour in advance of the time the transportation is to begin.

(05) **COMMERCIAL BUSINESS ENTITY** means any Person, as defined in this section,

engaged in commercial, industrial or institutional operations in connection with which money or anything of value is paid, demanded or expected by passengers, customers, or other users, but does not include the federal government of the United States, the State of Texas, the City of Galveston, the Galveston Wharves or any of their departments, agencies or political subdivisions (unless they provide, as their primary function, ground transportation of passengers in exchange for fares or charges).

- (16) **COMMERCIAL PASSENGER VEHICLE** means a vehicle not otherwise defined in this Tariff while it is used, or offered (orally or in a writing or sign) to be used, to transport one or more people, on land, either:
- (A) in exchange for a fare, charge, or other thing of value (paid, demanded, or expected for the transportation service, in whole or in part, directly or indirectly, by the person transported or by another person, or otherwise); or

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ISSUED: MAY 19, 2014 ^{1TH 3RD} Revised Page 3-1
~~DECEMBER 17, 2007~~
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- (B) In connection with the operations of a commercial business entity, regardless of whether a fare, charge, or other thing of value is paid, demanded or expected for the transportation service.

It shall be a presumption that a vehicle bearing the name, trade name, common name, emblem, trademark or other identification of a commercial business entity and being used to transport a passenger is a commercial passenger vehicle.

- (17) **COURTESY VEHICLE** means a commercial passenger vehicle that meets all of the following criteria at all times when it is operated on property owned, leased or controlled by the Galveston Wharves:

(A) The vehicle is owned or provided by one or more commercial business entities that: (i) arrange for the vehicle to provide transportation only incidentally to the commercial business entities' primary businesses or activities, which may, for example, be off-port car rental user, off-port parking user, lodging, air transportation, special events or medical care; (ii) provide the vehicle, by purchase or lease or by contracting with another party (which party may or may not be primarily in the business of providing ground transportation); and (iii) all sign the application for the Port Use License and/or Port Use Permit for Vehicle, as applicants or co-applicants.

(B) The vehicle is provided for the exclusive use of officers, agents, employees, customers or invitees of any of the commercial business entities.

(C) There is no fare, charge or thing of value paid, demanded or expected from the people transported, directly or indirectly, for transportation, and this is effectively communicated to the traveling public. (Example: An increase in the charge for lodging or for an event could be an indirect charge, if related to transportation.)

- (18) **GROUND TRANSPORTATION COMPANY** means any Person (other than the Galveston Wharves or any Person or entity under contract to provide transportation services for the Galveston Wharves) owning or operating the following types of vehicles as defined in this section: commercial passenger vehicle, bus, bus service, charter bus, courtesy vehicle, shuttle, limousine, taxi or taxicab service.

(109) **LIMOUSINE** means a motor vehicle operated for commercial purposes that shall not have a taximeter, which is a luxury sedan with a manufacturer's rated seating capacity of not more than fifteen (15) passengers that is used for the transportation of people.

(110) **OFF-PORT PARKING USER** means a commercial business entity which provides or arranges for one or more commercial passenger vehicles, courtesy vehicles, buses or shuttles, however owned or operated, to pick up or drop off passengers within a terminal complex of the Galveston Wharves in connection with the operations of a business of the user involving the parking of motor vehicles of any type at a facility located outside of the boundaries of property owned, operated or controlled by the Galveston Wharves.

(124) **OFF-PORT RENTAL CAR USER** means a commercial business entity which provides or arranges for one or more commercial passenger vehicles, courtesy vehicles, buses or
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^{2ND} 4th Revised Page 3-J

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shuttles, however owned or operated, to pick up or drop off passengers within a terminal complex of the Galveston Wharves in connection with a business of the user involving the renting of motor vehicles, all under circumstances where the user does not have a contract or lease with the Galveston Wharves for the use of counter space within the terminal complex.

(132) **ON-PORT RENTAL CAR USER** means a commercial business entity which may provide or arrange for one or more commercial passenger vehicles, courtesy vehicles, buses or shuttles, however owned or operated, to pick up or drop off passengers within a terminal complex of the Galveston Wharves in connection with a business of the user involving the renting of motor vehicles, under circumstances where the user has a contract or lease with the Galveston Wharves for counter space, kiosk or other location within the terminal complex.

(143) **OPERATE** means to drive or to be in control of a taxicab, limousine, bus, courtesy vehicle, shuttle or commercial passenger vehicle.

(154) **OWNER** means the person to whom state license plates for a vehicle were issued.

(165) **OPERATING AUTHORITY** means written permission or licensing granted on an annual basis by the Port Director under this section.

(179) **OPERATOR** means the owner of a taxicab, limousine, bus, courtesy vehicle, shuttle or commercial passenger vehicle; or the holder of a taxicab, limousine, bus, courtesy vehicle or shuttle operating authority.

(47) (18) **PERSON** means any natural person or any entity, whether organized for profit or not, that is a corporation, limited or general partnership, limited liability company, sole proprietorship, real estate investment trust, joint venture, joint stock company, cooperative, association, bank, trust, insurance company or other legal entity or combination organized pursuant to or recognized under the laws of Texas or any other state or country.

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(199) **PORT USE PERMIT** means a valid (not suspended or revoked) and unexpired permit issued by the Port Director pursuant to this Tariff Item. A Port Use permit contains terms and conditions as described herein, or as may be amended from time to time. A Port Use Permit grants privileges (e.g., using Galveston Wharves property for commercial purposes, supplying

services at the Galveston Wharves (Port of Galveston) for which fees are imposed. Both Port Use Permits and the more specialized contracts or leases mentioned in this Tariff are types of contracts.

(2019) **SHUTTLE** means a van-type motor vehicle operated for commercial purposes that ~~does~~ shall not have a taximeter, that has a manufacturer's rated seating capacity of ~~not less than eight (8) passengers and not more than twenty (20)~~ fifteen (15) passengers and is used for the transportation of people.

Comment [P56]: Changed to be consistent with the "less-than-15," "more-than-15" convention.

(210) **TAXI OR TAXICAB** means a chauffeured motor vehicle, but not including limousines, that is equipped with a taximeter, and that has a typical rated passenger capacity of eight (8) passengers or less, used for the transportation of passengers for hire over the public streets of the city that typically operates on irregular routes, irregular schedules, and a call and demand

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^{2ND} ~~461~~ Revised Page 3-K

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basis, and irrespective of whether or not the operations extend beyond the city limits, at rates for distance traveled, or for waiting time, or for both, or at rates per hour, per day, per week, or per month and such vehicle is routed under the direction of the passenger hiring the same.

~~Special Note: Taxi or Taxicab with seating capacity of greater than eight (8) passengers will be assessed a trip charge as indicated in "Note C" of this Tariff Item.~~

Comment [P57]: Recommending deletion since the provision has never been enforced and enforcing it would serve as a disincentive to taxi operators whom the Port is trying to attract.

(221) **TAXICAB, LIMOUSINE, BUS OR SHUTTLE SERVICE** means a passenger transportation service operated for hire that uses any one or more of the following vehicle types: taxicabs, limousines, buses, or shuttles in the operation of the service and includes (but is not limited to) a facility from which the service is operated; taxicabs, limousines, buses, or shuttles used in the operation; and a person who owns, controls, or operates the service.

(232) **TAXIMETER** means a device that mechanically or electronically computes a fare based upon the distance traveled, the time the taxicab is engaged, and any other basis for charges which are specified in the operating authority or rate ordinance pertaining to the holder.

(243) **CRUISE SHIP TERMINAL COMPLEX** means that area within the boundaries of property owned, leased or controlled by the Galveston Wharves located within 400 feet of a passenger terminal building (or any part thereof). The Cruise Ship Terminal Complex is also known and referred to as the Texas Cruise Ship Terminal on Galveston Island or the Texas Cruise Ship Terminal at Pier 27. The Port Director may promulgate a map or other description of a terminal complex, and it shall be a presumption that the boundaries of the terminal complex are as so promulgated by the Port Director.

Comment [P58]: The tariff refers in several places to "Texas Cruise Ship Terminal on Galveston Island", or the Texas Cruise Ship Terminal at Pier 27, collectively the Cruise Ship Terminal Complex so the definitions section should match the substantive portion of the tariff.

BOARD OF TRUSTEES
OF THE GALVESTON WHARVES
Tariff Circular No. 6

11th Revised Page 3-C

ISSUED: NOVEMBER 21, 2013

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SECTION 100 - GENERAL INFORMATION, RULES AND REGULATIONS

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The request for renewal may be granted or denied, or granted with such limitations and restrictions deemed appropriate by the Board of Trustees of the Galveston Wharves. If such request for renewal and responsive information, along with the annual license fee, is not received by the deadline described above, the license will expire at midnight, December 31st. In the event of expiration or termination of a stevedore license, the Board of Trustees may, as deemed appropriate, notify all known customers of the stevedore and other users of the Port of Galveston of the respective stevedore license expiration or termination.

A licensee wishing to reinstate its Stevedore License after expiration or termination must submit a new application in its entirety, accompanied by the respective application processing fee, unless the Board of Trustees of the Galveston Wharves, in its discretion, waives this requirement.

Non-Transferability of License

No license shall be transferred or assigned to or otherwise used by any person other than the named licensee without the prior written approval of the Galveston Wharves. Any person, firm, corporation or other business entity properly acquiring all or substantially all of the stevedoring business assets from a licensee hereunder may qualify for a license by conforming to the Stevedore License Application requirements of this Tariff item.

OTHER LICENSES AND PERMITS

(C)(A)(I) 111

Port and Cruise Terminal Use and Parking Permits and Fees

Applications for Port Use Permits are to be submitted to the Galveston Wharves using Application Forms, which are available at the Offices of the Galveston Wharves. An initial application fee and annual renewal fee are required for the following categories of business conducting activities on or in connection with the property of the Galveston Wharves:

1. Commercial Business Entities not operating under a Lease Agreement, Berthing Agreement, Operating Agreement, Operating or Terminal Services Agreement or Concession Agreement with the Galveston Wharves or the Galveston Port Facilities Corporation
Initial Application Fee: \$300.00 Annual Renewal Fee: \$75.00
2. Commercial Passenger Vehicle Service with more than two (2) vehicles providing access for people to the Galveston Wharves and the Cruise Ship Terminal Complex. (Not operated or controlled by or under contract for transportation services with the Galveston Wharves) (Notes A, C, D & E)
Initial Application Fee: \$300.00 Annual Renewal Fee: \$75.00
3. Commercial Passenger Vehicle Services with two (2) or fewer vehicles providing access for people to the Galveston Wharves and the Cruise Ship Terminal Complex. (Not operated or controlled by or under contract for transportation services with the Galveston Wharves) (Notes A, C, D & E)
Initial Application Fee: \$120.00 Annual Renewal Fee: \$50.00

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BOARD OF TRUSTEES
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7th Revised Page 3-D

ISSUED: NOVEMBER 21, 2013

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SECTION 100 - GENERAL INFORMATION, RULES AND REGULATIONS

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4. Mobile Food and/or Merchandise Vendors Initial Application Fee: \$120.00 Annual Renewal Fee: \$50.00	
5. Common Carriers by Water of Passengers (Water Taxi Service) Initial Application Fee: \$300.00 Annual Renewal Fee: \$75.00	
6. Organizations performing Oil Waste, Bilge Water and Gray Water Removal Service Initial Application Fee: \$300.00 Annual Renewal Fee: \$75.00	
7. Organizations performing Sanitary and Solid Waste Removal Services Initial Application Fee: \$300.00 Annual Renewal Fee: \$75.00	
8. Organizations performing the Services of Line Handling for Vessels. Initial Application Fee: \$300.00 Annual Renewal Fee: \$75.00	
9. Persons Operating Pneumatic Trucks Handling Plastic Polymer Pellets Initial Application Fee: \$300.00 Annual Renewal Fee: \$75.00	

In addition to the application and Port Use Permit fee, all applications must be accompanied by a Certificate of Insurance showing proof of insurance, not less than that required in Item 600 of this Tariff, and meeting all other requirements found in Item 600 of this Tariff, except as noted in "Note B", below. The Insured party must be the same name as the Applicant and the Taxpayer Identification registered with the Texas Secretary of State and the Texas Comptroller of Public Accounts for the named business entity. The City of Galveston and the Board of Trustees of the Galveston Wharves must also be named as "Additional Insureds" with Waiver of Subrogation.

Port Use Permits are to be issued for a period of one (1) year beginning January 1st and ending December 31st. New businesses requiring Port Use Permits within three months of the above expiration date will be issued such permits to extend the following year,

Note A. A separate Port Use Permit must be obtained for each of the business categories, named above, in which any business entity is engaged.

Note B. The following insurance requirements defined in the City of Galveston Ordinances, as may be amended from time to time, which are applicable to Commercial Vehicles for Hire, are incorporated into this Tariff Circular and apply to the respective types of vehicles referenced in the ordinance section heading (See also: www.cityofgalveston.org). The Port reserves the right to modify certain liability and other insurance requirements as deemed necessary based on a review of the applicant and type of business. License holders and Port Use Permit holders shall, in addition to the notice-to-the-City requirement in the City Ordinance, notify the Port in all instances in which the Ordinance requires notice to the City.

Sec. 35-54. Insurance-taxicabs.

Every holder of a license to operate a taxicab service pursuant to the provisions of this chapter shall maintain in full force and effect at all times a policy or policies of automobile liability and property damage insurance, with an insurance

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company or companies authorized to do business in Texas, covering each vehicle so used, in an amount not less than the minimum coverage required by state law. No taxicab permit shall be issued or renewed unless the applicant has obtained for the vehicle involved an automobile liability insurance policy with an insurance company or companies authorized to do business in Texas with minimum limits as prescribed pursuant to state law. The applicant prior to issuance or renewal of the permit shall furnish satisfactory proof of such coverage. Said policy shall contain a clause requiring thirty (30) days notice be given to the city prior to cancellation. If such notice of cancellation is given by the insurance company, the licensee shall obtain new insurance before meeting the requirements of this section prior to the expiration of the 30-day period; if the license fails to do so his permit shall be immediately revoked.

(Ord. No. 02-058, § 3, 6-27-02)

Sec. 35-55. Insurance-limousines.

Every holder of a license to operate a limousine service pursuant to the provisions of this chapter shall maintain in full force and effect at all times a policy or policies of automobile liability and property damage insurance with an insurance company or companies authorized to do business in Texas, covering each vehicle so used, in an amount not less than five hundred thousand dollars (\$500,000.00) combined single limits. No limousine permit shall be issued or renewed unless the applicant has obtained for the vehicle involved an automobile liability insurance policy with an insurance company or companies authorized to do business in Texas with the required coverage. An applicant prior to the issuance or renewal of annual permit shall furnish satisfactory proof of such coverage. The holder shall furnish proof of such coverage by filing with the director a valid certificate of insurance, or in lieu thereof a true multiple original of any such policy. The policy shall contain a clause requiring thirty (30) days' notice be given to the city prior to cancellation. If the insurance company gives such notice of cancellation, the holder shall obtain new insurance before the expiration of the 30-day period; if the holder fails to do so his permit shall be immediately revoked.

(Ord. No. 02-058, § 3, 6-27-02)

Sec. 35-56. Insurance-buses and shuttles.

Every holder of a license to operate a bus or shuttle vehicle service pursuant to the provisions of this chapter shall maintain in full force and effect at all times a policy or policies of automobile liability and property damage insurance with an insurance company or companies authorized to do business in Texas, covering each vehicle so used, in an amount not less than five hundred thousand dollars

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BOARD OF TRUSTEES
OF THE GALVESTON WHARVES
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7th Revised Page 3-F

ISSUED: MAY 19, 2014

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	(\$500,000.00) combined single limits. No bus or shuttle vehicle permit shall be issued or renewed unless the applicant has obtained for the vehicle involved an automobile liability insurance policy with an insurance company or companies authorized to do business in Texas with the required coverage. An applicant prior to the issuance or renewal of annual permit shall furnish satisfactory proof of such coverage. The holder shall furnish proof of such coverage by filing with the director a valid certificate of insurance, or in lieu thereof a true multiple original of any such policy. The policy shall contain a clause requiring thirty (30) days' notice be given to the city prior to cancellation. If the insurance company gives such notice of cancellation, the holder shall obtain new insurance before the expiration of the 30-day period; if the holder fails to do so his permit shall be immediately revoked. (Ord. No. 02-058, § 3, 6-27-02)

Note C. In addition to the annual Port Use Permit fee, ground transportation companies, as defined herein, accessing Cruise Terminal 1/ Texas Cruise Ship Terminal on Galveston Island®, or Cruise Terminal 2 / Texas Cruise Ship Terminal at Pier 27, collectively the Cruise Ship Terminal Complex, shall be subject to the following decal and/or access fees for each vehicle that shall have such access:

Type of Vehicle and Vehicle
Seating Capacity:

Decal and Access Charge:

Charter Bus Owners and Operators
(** As noted in Notes D & E, below)

\$60.00 Parking Fee

Commercial Passenger Vehicle, Courtesy
Vehicle, Shuttle or Limousine with
Seating Capacity of fifteen (15) persons or more
(**Except as noted in Notes D & E, below)

\$25.00 per decal per vehicle annually and
\$30.00 per Access / Trip

Commercial Passenger Vehicle, Courtesy
Vehicle, Shuttle or Limousine with
Seating Capacity of less than fifteen
(15) persons
(**Except as noted in Notes D & E, below)

\$15.00 per decal per vehicle annually and
\$20.00 per Access/Trip

Taxicabs with City of Galveston permit

\$7.50 per decal per vehicle, annually

Note D. Those **Off-Port Parking Users**, as defined herein, in operation and accessing the Texas Cruise Ship Terminal on Galveston Island®, or the Texas Cruise Ship Terminal at Pier 27, collectively the Cruise Ship Terminal Complex, shall, in lieu of the Access/ Trip fee, be subject to a monthly Access Fee equal to the amount of \$28.88 per parking space located in the Off-Port Parking User's parking facility, with number of billable parking spaces to be confirmed

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BOARD OF TRUSTEES
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Note D.	periodically by the Galveston Wharves. The Access Fee will be effective on and after July 1, 2014 and will be subject to periodic adjustment by the Board of Trustees of the Galveston Wharves. In addition, Off-Port Parking Users shall pay a decal fee of \$15.00 per decal per shuttle annually. The Galveston Wharves will provide all Off-Port Parking Users to whom the Access Fee applies with notice of each adjustment to the Access Fee and the calculation of the adjustment no later than 30 days prior to the date of any effective increase.
Note E.	Parking Fees - Those Charter Bus Owners and Operators , as defined herein, in operation and accessing the Texas Cruise Ship Terminal on Galveston Island®, or the Texas Cruise Ship Terminal at Pier 27, collectively the Cruise Ship Terminal Complex, as of July 1, 2014 shall, in lieu of the payment of Initial Application and Renewal Fees for Port Use Permits, Decal Fees and/or the Access/ Trip fee, be subject to a Parking Fee equal to the amount of \$60.00 per each use of any bus parking space located in the Cruise Ship Terminal Complex. Charter Bus Operators must provide sufficient advance notification to the Port, Attention of the Director of Administration, in advance of arrival at the Port to allow for review of the existence and sufficiency of the required insurance. Additionally, payment shall be made by check on arrival at the Cruise Ship Terminal Complex, unless prior acceptable payment arrangements have been made in advance with the Port.

Payment of Fees:

Payment of fees for initial application for Port Use Permit and for renewal of Port Use Permits is due upon submission of the completed application for such permit in person, e-mail or by mail at the Administrative Offices of the Port of Galveston. Extension of Credit, issuance of invoices for payment of fees and payment of all fees other than application fees due to the Galveston Wharves will be made in accordance with the provisions of Section 100 of Tariff Circular No. 6, Items No. 192, 194, 196 and 198. Decals will be issued to the person at the time the application is delivered to the Port or mailed to Port Use Permit applicants, at the mailing address noted on the application, upon approval of the Port Use Permit application by the Galveston Wharves.

Suspension or Revocation of Port Use Permits will be in accordance with the terms of Item #112 of Tariff Circular No. 6, as it may be amended from time to time.

Definitions:

- (1) **ACCESS** means to enter upon premises owned, operated or controlled by the Board of Trustees of the Galveston Wharves.
- (2) **BILLABLE PARKING SPACES** means the number equal to the maximum parking capacity of the off-port parking user's lot.

Item No. 111 continued on the next page.

BOARD OF TRUSTEES
OF THE GALVESTON WHARVES
Tariff Circular No. 6

6th Revised Page 3-H

ISSUED: MAY 19, 2014

EFFECTIVE: JULY 1, 2014

SECTION 100 – GENERAL INFORMATION, RULES AND REGULATIONS

APPLICATION	ITEM
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- (3) **BUS** means a motor vehicle operated for commercial purposes that:
(A) has manufacturer's rated seating capacity of more than fifteen (15) passengers (including the driver); and
(B) is used for the transportation of people.
- (4) **BUS SERVICE** means the business of offering or providing transportation of people for hire by bus, whether the fare is paid by individuals boarding the bus or by contract with or for a specified group or people, when:
(A) a driver or referral to a driver is furnished as part of the service; and
(B) the service is offered either as a charter bus service or a special bus service.
- (5) **CHARTER BUS SERVICE** means a bus service for the transport of people belonging to a specified group that is offered only upon a prearranged basis, the prearrangement being made at least one hour in advance of the time the transportation is to begin.
- (6) **COMMERCIAL BUSINESS ENTITY** means any Person, as defined in this section, engaged in commercial, industrial or institutional operations in connection with which money or anything of value is paid, demanded or expected by passengers, customers, or other users, but does not include the federal government of the United States, the State of Texas, the City of Galveston, the Galveston Wharves or any of their departments, agencies or political subdivisions (unless they provide, as their primary function, ground transportation of passengers in exchange for fares or charges).
- (7) **COMMERCIAL PASSENGER VEHICLE** means a vehicle not otherwise defined in this Tariff while it is used, or offered (orally or in a writing or sign) to be used, to transport one or more people, on land, either:
(A) in exchange for a fare, charge, or other thing of value (paid, demanded, or expected for the transportation service, in whole or in part, directly or indirectly, by the person transported or by another person, or otherwise); or
(B) in connection with the operations of a commercial business entity, regardless of whether a fare, charge, or other thing of value is paid, demanded or expected for the transportation service.

It shall be a presumption that a vehicle bearing the name, trade name, common name, emblem, trademark or other identification of a commercial business entity and being used to transport a passenger is a commercial passenger vehicle.

- (8) **COURTESY VEHICLE** means a commercial passenger vehicle that meets all of the following criteria at all times when it is operated on property owned, leased or controlled by the Galveston Wharves:

- (A) The vehicle is owned or provided by one or more commercial business entities that:
(i) arrange for the vehicle to provide transportation only incidentally to the commercial business entities' primary businesses or activities, which may, for example, be off-port car rental user, off-port parking user, lodging, air transportation, special

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BOARD OF TRUSTEES
OF THE GALVESTON WHARVES
Tariff Circular No. 6

5th Revised Page 3-I

ISSUED: MAY 19, 2014

EFFECTIVE: JULY 1, 2014

SECTION 100 - GENERAL INFORMATION, RULES AND REGULATIONS

APPLICATION	ITEM
events or medical care; (ii) provide the vehicle, by purchase or lease or by contracting with another party (which party may or may not be primarily in the business of providing ground transportation); and (iii) all sign the application for the Port Use License and/or Port Use Permit for Vehicle, as applicants or co-applicants.	
(B) The vehicle is provided for the exclusive use of officers, agents, employees, customers or invitees of any of the commercial business entities.	
(C) There is no fare, charge or thing of value paid, demanded or expected from the people transported, directly or indirectly, for transportation, and this is effectively communicated to the traveling public. (Example: An increase in the charge for lodging or for an event could be an indirect charge, if related to transportation.)	
(9) GROUND TRANSPORTATION COMPANY means any Person (other than the Galveston Wharves or any Person or entity under contract to provide transportation services for the Galveston Wharves) owning or operating the following types of vehicles as defined in this section: commercial passenger vehicle, bus, bus service, charter bus, courtesy vehicle, shuttle, limousine, taxi or taxicab service.	
(10) LIMOUSINE means a motor vehicle operated for commercial purposes that shall not have a taximeter, which is a luxury sedan with a manufacturer's rated seating capacity of not more than fifteen (15) passengers that is used for the transportation of people.	
(11) OFF-PORT PARKING USER means a commercial business entity which provides or arranges for one or more commercial passenger vehicles, courtesy vehicles, buses or shuttles, however owned or operated, to pick up or drop off passengers within a terminal complex of the Galveston Wharves in connection with the operations of a business of the user involving the parking of motor vehicles of any type at a facility located outside of the boundaries of property owned, operated or controlled by the Galveston Wharves.	
(12) OFF-PORT RENTAL CAR USER means a commercial business entity which provides or arranges for one or more commercial passenger vehicles, courtesy vehicles, buses or shuttles, however owned or operated, to pick up or drop off passengers within a terminal complex of the Galveston Wharves in connection with a business of the user involving the renting of motor vehicles, all under circumstances where the user does not have a contract or lease with the Galveston Wharves for the use of counter space within the terminal complex.	
(13) ON-PORT RENTAL CAR USER means a commercial business entity which may provide or arrange for one or more commercial passenger vehicles, courtesy vehicles, buses or shuttles, however owned or operated, to pick up or drop off passengers within a terminal complex of the Galveston Wharves in connection with a business of the user involving the renting of motor vehicles, under circumstances where the user has a contract or lease with the Galveston Wharves for counter space, kiosk or other location within the terminal complex.	
(14) OPERATE means to drive or to be in control of a taxicab, limousine, bus, courtesy vehicle, shuttle or commercial passenger vehicle.	

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BOARD OF TRUSTEES
OF THE GALVESTON WHARVES
Tariff Circular No. 6

3rd Revised Page 3-J

ISSUED: MAY 19, 2014

EFFECTIVE: JULY 1, 2014

SECTION 100 - GENERAL INFORMATION, RULES AND REGULATIONS

APPLICATION	ITEM
(15)	OWNER means the person to whom state license plates for a vehicle were issued.
(16)	OPERATING AUTHORITY means written permission or licensing granted on an annual basis by the Port Director under this section.
(17)	OPERATOR means the owner of a taxicab, limousine, bus, courtesy vehicle, shuttle or commercial passenger vehicle; or the holder of a taxicab, limousine, bus, courtesy vehicle or shuttle operating authority.
(18)	PERSON means any natural person or any entity, whether organized for profit or not, that is a corporation, limited or general partnership, limited liability company, sole proprietorship, real estate investment trust, joint venture, joint stock company, cooperative, association, bank, trust, insurance company or other legal entity or combination organized pursuant to or recognized under the laws of Texas or any other state or country.
(19)	PORT USE PERMIT means a valid (not suspended or revoked) and unexpired permit issued by the Port Director pursuant to this Tariff Item. A Port Use permit contains terms and conditions as described herein, or as may be amended from time to time. A Port Use Permit grants privileges (e.g., using Galveston Wharves property for commercial purposes, supplying services at the Galveston Wharves (Port of Galveston) for which fees are imposed. Both Port Use Permits and the more specialized contracts or leases mentioned in this Tariff are types of contracts.
(20)	SHUTTLE means a van-type motor vehicle operated for commercial purposes that does not have a taximeter, that has a manufacturer's rated seating capacity of less than fifteen (15) passengers and is used for the transportation of people.
(21)	TAXI OR TAXICAB means a chauffeured motor vehicle, but not including limousines, that is equipped with a taximeter, and that has a typical rated passenger capacity of eight (8) passengers or less, used for the transportation of passengers for hire over the public streets of the city that typically operates on irregular routes, irregular schedules, and a call and demand basis, and irrespective of- whether or not the operations extend beyond the city limits, at rates for distance traveled, or for waiting time, or for both, or at rates per hour, per day, per week, or per month and such vehicle is routed under the direction of the passenger hiring the same.
(22)	TAXICAB, LIMOUSINE, BUS OR SHUTTLE SERVICE means a passenger transportation service operated for hire that uses any one or more of the following vehicle types: taxicabs, limousines, buses, or shuttles in the operation of the service and includes (but is not limited to) a facility from which the service is operated; taxicabs, limousines, buses, or shuttles used in the operation; and a person who owns, controls, or operates the service.
(23)	TAXIMETER means a device that mechanically or electronically computes a fare based upon the distance traveled, the time the taxicab is engaged, and any other basis for charges which are specified in the operating authority or rate ordinance pertaining to the holder.

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BOARD OF TRUSTEES
OF THE GALVESTON WHARVES
Tariff Circular No. 6

3rd Revised Page 3-K

ISSUED: MAY 19, 2014

EFFECTIVE: JULY 1, 2014

SECTION 100 - GENERAL INFORMATION, RULES AND REGULATIONS

APPLICATION

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(243) **CRUISE SHIP TERMINAL COMPLEX** means that area within the boundaries of property owned, leased or controlled by the Galveston Wharves located within 400 feet of a passenger terminal building (or any part thereof). The Cruise Ship Terminal Complex is also known and referred to as the Texas Cruise Ship Terminal on Galveston Island® or the Texas Cruise Ship Terminal at Pier 27. The Port Director may promulgate a map or other description of a terminal complex, and it shall be a presumption that the boundaries of the terminal complex are as so promulgated by the Port Director.

**Minutes of the Regular Monthly Meeting of the
Board of Trustees of the Galveston Wharves
Thursday, December 19, 2013**

Minutes of the Regular Monthly Meeting of the Board of Trustees of the Galveston Wharves held Thursday, December 19, 2013, in the offices of the Port of Galveston on the 8th Floor of the Shearn Moody Plaza, 123 Rosenberg, Galveston, Texas.

The Vice Chairman called the meeting to order at 9:38 a.m., Thursday, December 19, 2013.

Vice Chairman Walsh welcomed everyone to the meeting, noting that he would chair today's meeting as Chairman Holland was out of town. The Vice Chairman asked the Council's newly appointed member to the Board of Trustees to come forward for the administration of the Oath of Office. Albert P. Shannon recited the Oath of Office and Sworn Statement, signed the designated forms, and was heartily welcomed to the Board by the Vice Chairman, Trustees and Port staff.

The Secretary to the Board called roll. Vice Chairman Walsh announced that a quorum of the Board of Trustees was present.

The Board, staff and visitors recited the Pledge of Allegiance.

Presiding Officer: Edward J. Walsh, III, Vice Chairman, Board of Trustees

Present:	Vice Chair Edward J. Walsh, III	Trustee Richard DeVries
	Trustee Albert P. Shannon	Trustee John A. Smecca
	Trustee Gerald A. Sullivan	

Others:	Michael J. Mierzwa	Hulse Wagner
	Peter Simons	Anthony Brown
	John G. Peterlin, III	Bernard A. Curran
	Roger R. Quiroga	Mark Murchison
	Robert Pierce	Diane Falcioni
	Cristina Galego	Angie Ramirez
	Judy K. Sponge	

Visitors:	Billie Hoskins	Bob Arroyave
	Ty Thomas	Darrick Eugene
	Larry Hurley	Rod McCrory
	Bryan Bradley	Charles Tompkins
	Cindy Tompkins	Gino Vaiani

Vice Chairman Walsh called for the declaration of conflicts of interest. No conflicts were declared by the Trustees.

Management always be remembered and appreciated by this Board, and that a copy of this Resolution be presented to the Family of Robert Emmett Hoskins over signature of the Board of Trustees of the Galveston Wharves, with sincerest sympathy and deepest regard by this Board.

Mrs. Hoskins graciously accepted the Resolution and framed photograph of Mr. Hoskins that previously hung on the Board Room wall, stating that her husband totally enjoyed serving on the Board of Trustees.

Mr. Mierzwa thanked Mrs. Hoskins, noting that the Port of Galveston was very lucky to have such a fine Board member as Trustee Hoskins, stating that he will certainly be remembered by all.

Vice Chairman Walsh stated that he had received one request to address the Trustees under the Comments Section on the agenda, and asked that if there is anyone else who would like to comment to please fill out a Request to Address the Board form.

Vice Chairman Walsh recognized Mr. Charles Tompkins who had requested to address the Trustees on the Port of Galveston Management – Parking.

Mr. Tompkins stated his full name is Charles Tompkins and that he resides at 5316 Avenue Q½ in Galveston. He stated that he was a long-time Galveston local. Mr. Tompkins stated that he was representing several people associated with the parking lots. Mr. Tompkins stated that he appreciated the Board's patience, especially for the few moments while he was at the podium.

Mr. Tompkins has heard that there is a possibility of increased prices for parking, and he wanted to thank Benny Holland for not being here today so that he could talk to the Trustees a little more, and allow the Board to please consider the things that he is going to present to them today so that the Board will understand how the lots function and what the owners thoughts are. Under no uncertain terms does anyone in the independent parking lots rest on the laurels of the Port, or ride the coattails of the Port. No one is greedy or anything along those lines. Mr. Tompkins stated that they actively and significantly support all aspects of the Port of Galveston in every way imaginable, especially when it comes to growing the markets within the parking areas that they have. That is all they do, Mr. Tompkins stated, and therefore they do contribute a significant amount to the Port of Galveston. Mr. Tompkins continued, stating that he was not sure if everyone knew that Carnival offers \$10 or \$12 per person to the Port of Galveston for every person that goes through the port, asking that he be corrected if this was not true because he was not sure but was going from things that he had read, and further stating that he believed that that was a substantial amount of money coming into the Port, which is great. People love coming to Galveston and they could very easily stop forty or thirty miles sooner and go to another port, which is not what anyone here obviously wants to happen.

Mr. Tompkins stated that his thoughts are, and he has several ideas and noted that he would like, if he could, to reach out possibly to people who are associated with this

initiative and spend just a few minutes offering these ideas to them and possibly anyone here. Mr. Tompkins would like to do this within the next couple of days because there are some opportunities of significant increase in funds that might possibly be overlooked or maybe not discussed. There are some independent lots that offer zero dollars, zero dollars to the Port of Galveston yet have a significant amount of cars parked in their spots and they rush those people across 23rd Street and Harborside. Mr. Tompkins apologized stating that the streets are 25th and Harborside. 25th Street and Harborside is a fast paced moving place. Mr. Tompkins continued, noting that people nearly get hit every single cruise day going through there. Mr. Tompkins suggested just blocking that area off and allowing people to use the catwalk, which the Port will eventually use to let passengers come through a different area that would first of all provide a lot of safety, and second of all if you had those guys that park people in those lots – the garages there – contribute also to the significant amount of money that is needed to make this initiative work, you would have a lot saved.

Mr. Tompkins stated that these are just a few things that he wanted to say to the Trustees, and that there are about four or five more, but he did not think that now is the time to get into that. Mr. Tompkins wanted the Trustees to know that he wanted to reach out to them just as much as the Trustees would allow him to, and help the Trustees understand that whatever decision the Board makes will be the right decision. Mr. Tompkins noted that he understood that Mr. Simons will be in charge of some of these initiatives and that he would like to reach out to Mr. Simons at some point in time.

Mr. Tompkins congratulated Trustee Shannon on his appointment to the Board of Trustees. Mr. Tompkins stated that if anyone had any questions for him, to please feel free to ask them.

Vice Chairman Walsh questioned which parking lot Mr. Tompkins was involved with. Mr. Tompkins responded the EZ Cruise lot. Mr. Tompkins stated that they have gathered all of the lots together and several other people in the Galveston Island Parking Consortium, which gives them the ability to communicate with one another.

Trustee Smecca believed that this would be a great idea, noting that he was at lunch last week and was approached by this gentleman's son, a really nice guy, stating that one thing of note is that this is a family owned business here in Galveston, and Trustee Smecca was happy about that as opposed to someone who is from out of town, but has property here, and takes advantage of it. Trustee Smecca recognized that this is a Galveston family who lives here and pays taxes here, and so there is a win-win there for all of us. Mr. Tompkins mentioned to Trustee Smecca that being here today was about the lot owners coming together and having one voice coming to the Port and working together. Trustee Smecca believed that that was very smart and good for the Port to have the parking lot folks involved, and felt that moving forward it would be good for everybody. Trustee Smecca stated that until Mr. Tompkins brought up the parking lots whose customers do not drive to the terminals, but walk to the terminals, Trustee Smecca did not give it any thought, although he knew about it, but did not give any thought to it and he did not know how much of a number that becomes.

Vice Chairman Walsh believed that it was important for the Board to understand the concerns of the industry and also believed that it was important for the parking industry to understand the Port's concerns and the realities of the finances of the operation. The Vice Chairman believed that it was a great idea for the parking lot group to meet with Mr. Simons or whoever Mr. Mierzwa wants them to meet with. Vice Chairman Walsh added that the Board has also talked about having a special Finance Committee Meeting, initially this month but things did not work out, but the Board is still looking at having that meeting in February to go over in detail this particular issue.

Mr. Tompkins clarified that the spaces being discussed are between four and five hundred. Mr. Tompkins thanked the Trustees for the opportunity to address them.

Vice Chairman Walsh called for a motion on the minutes of the Regular Monthly Meeting of the Board of Trustees held November 21, 2013. *Trustee Sullivan moved approval as distributed. Motion was seconded by Trustee Smecca and unanimously carried.*

Vice Chairman Walsh called for the Port Director's Report.

Mr. Mierzwa presented his monthly report which was furnished to the Trustees in their notebooks, providing the revenue report for December 2013, tonnage reports and updating the Trustees on *Carnival Triumph* and the business interruption loss, Pier 10 improvements, the Project to fill in Slips 12 and 14, the Galveston Downtown Transit Terminal, the Shearn Moody Plaza Garage, the Cruise Terminal Walkway Repairs and the help with the SMP Parking Garage being provided by Kevin Harrington, conference calls with Phoenix Port Partners and representatives of SAAM, SA, the IDC funded projects, the Gulf Copper lease, Thomas Marine, and Transort's permitting process progress on a desalination plant and new rail/vehicular bridges to Pelican Island.

Trustee Smecca moved, with the second of Trustee Sullivan, to accept the Port Director's Report as presented. Motion unanimously carried.

Finance Committee Chairman/Board Vice Chairman Walsh stated that the Finance Committee met earlier this morning and discussed the Consent Agenda in detail, with specifics on the Port's finances provided by the Director of Finance, Mark Murchison. Finance Committee Chairman Walsh stated that the Finance Committee moved for approval of Consent Agenda Items D-1 – Board and Staff Expense Report, D-2 – Financial Statements, D-3 - Port Investments Report, D-4 - Bank Reconciliation Report and Schedule of Internal Fund Balances, D-5 – Cash Flow for the Month of November, 2013, D-6 Monthly Delinquent Accounts Receivable Analysis, and D-7 – Vendor Check Register Report. There was nothing submitted for Trustee action under Consent Agenda Item D-8 – Trade Development. *Finance Committee Chairman/Board Vice Chair Walsh moved for approval of Consent Agenda Items D-1 through D-7 as discussed and recommended by the Finance Committee. Motion was seconded by Trustee Smecca. Trustee DeVries stated that he was opposed. Vice Chairman Walsh called for an amendment to his motion to include approval of Consent Agenda Items D-1 through D-6 as discussed and recommended by the Finance Committee. Trustee DeVries so*

**Minutes of the Regular Monthly Meeting of the
Board of Trustees of the Galveston Wharves
Monday, August 27, 2012**

Minutes of the Regular Monthly Meeting of the Board of Trustees of the Galveston Wharves held Monday, August 27, 2012, in the offices of the Port of Galveston on the 8th Floor of the Shearn Moody Plaza, 123 Rosenberg, Galveston, Texas.

The Secretary to the Board called roll. Chairman Bassett declared a quorum of the Board of Trustees present and called the meeting to order at 10:24 a.m., Monday, August 27, 2012.

Presiding Officer: Chairman Roland L. Bassett

Present:	Chairman Roland L. Bassett Trustee Benjamin F. Holland, Jr. Trustee Rusty V. Legg Trustee John A. Smecca	Vice Chair Edward J. Walsh, III Trustee Robert E. Hoskins Trustee John G. Manlove
Others:	Michael J. Mierzwa John G. Peterlin, III Roger R. Quiroga Robert Pierce Susan Klima Angie Ramirez	Wm. Hulse Wagner Bernard A. Curran Mark Murchison Diane P. Falcioni Cristina Galego Judy K. Esponge
Visitors:	John Tindel William Merrell John Helsley Robert Smith Dianna Puccetti Gregory Harrington Charles Tompkins Steve Conway	Cherie Coffinan Bob Arroyare Darrick Eugene Bill McClain Ivan Burkett Cindy Tompkins Jason Hayes Reed Kauffman

Chairman Bassett called for the declaration of conflicts of interest. There were no conflicts voiced by the Trustees at this time.

Chairman Bassett called for Presentations and Announcements, stating that it was the Board's honor to recognize two of the Port's Trustees who are no longer on the Board because of term limits, but who have been invited back this morning to receive a special recognition.

Chairman Bassett first recognized former City Councilwoman and Trustee, Ms. Dianna Puccetti, and the Port Director read the following Resolution into the records:

There are four major engineering groups at the table. Each group has been interviewed to find out who brings the strongest team to the table, and who can be of the most benefit to TM&P and help us move the project forward at a rapid pace. While it seems like this project has been drug out for the first six months, Mr. Helsley stated, there are certain crucial parts of this that had to happen before they could get the engineering done. Mr. Helsley estimated today that they would have their engineering partner locked in by the middle of September, and that is their goal.

The big concern in the cruise ship terminal and the cargo terminal is the automobile bridge — the existing bridge, which is a major concern of the investors, Mr. Helsley reported. Even if they just go with the cargo terminal, you must move trucks and you have to have rail. The current bridge is antiquated. TM&P is going to present to whichever agency is going to head this project up, a letter of financial commitment to help the process of rebuilding the Pelican Island Bridge. Mr. Helsley stated that they have convinced their investors that they cannot do everything on Pelican Island that they need to do without this bridge.

Mr. Helsley noted that his investors like the Ike Dike concept, and commended Dr. Merrell on his vision for the Ike Dike, because the investors do not want to put a \$1.3 to \$1.4 billion investment on Pelican Island and be in jeopardy of it being flooded. Mr. Helsley stated that the investors are not going to put up \$6 million, but TM&P is talking to their investors to get a sizeable pledge to get this started, because it would be an insurance policy.

Mr. Helsley concluded his presentation, stating that they are seeing a lot of good things happening and they are finally seeing this process move forward with a lot of united effort.

Chairman Bassett thanked Mr. Helsley for his update.

Chairman Bassett next recognized Mr. Charles Tompkins who submitted a request to address the Board on parking safety and Galveston revenue from cruise passengers.

Mr. Tompkins stated that he was an average guy who works in Galveston who had something to bring to the Board's attention, and requested the Board's help. Mr. Tompkins stated that Chief Pierce and others were very helpful in talking to some of the independent parking lots about better ways to bring in the cars and the transportation system through the Port of Galveston. There are dozens and dozens and dozens of people in Galveston around the 25th Street area, and that whole area on the Strand, that rely for their livelihood on the thousands of cruise passengers or passengers that go into the Port on an annual basis who, when they are finished with their cruise, or after they drop off their luggage at 9 a.m. - 10 a.m., who want to go out and play and go to Yaga's or wherever they might want to go, but they cannot exit out of 25th Street. They are instead routed out of the way and down toward Parking Lot B. A lot of those people do not want to park right away and go onto the cruise ship and wait for several hours, but instead want to come in and drop off their luggage and go out and play and have fun. Mr. Tompkins stated that that is economic luster for all of us, because the area relies heavily on those people.

Mr. Tompkins stated that he would like the Port to consider making sure that they do their best to do what Chief Pierce has asked of others in making sure that that flow goes out properly into Galveston when the passengers drop off their luggage.

Mr. Tompkins stated that he stopped at Kelly's on his way out of Galveston onto the mainland and he literally saw dozens and dozens of cruise passengers eating there. Those passengers could have been eating in Galveston and going to the Pleasure Pier and enjoying themselves, but what happens is that they get frustrated once they are sent all the way down past 25th St., past 28th St., all the way down to 33rd St. by Harborside, and they then just decide to leave and go home. There is a lot more to Galveston than having that potential revenue stream exit out of the City. Mr. Tompkins reached out to the Trustees to help Galvestonians to be more successful and make sure that the traffic flow goes out properly throughout Galveston when the cruise passengers drop off their luggage.

Vice Chairman Walsh addressed Mr. Tompkins, stating that he really did not completely introduce himself, and asked Mr. Tompkins if he lived on the Island, had a business here, and what group he represented. Mr. Tompkins responded that he and his wife have a house at 1820 Winnie and that he lived at 2016 Strand. Mr. Tompkins stated that his wife has a business silently, like many other people. If anyone has ever been to Bistro LeCroy's, because they look so forward to the cruise days for their business, but then we found that passengers were not exiting out of 25th Street and coming in and filtering onto the Strand, but instead taken out of the way to 33rd Street. Mr. Tompkins believed that it was much safer to exit 25th Street with the officers directing traffic, than at 33rd Street, where it is very dangerous.

Chairman Bassett next called for approval of the minutes.

Vice Chairman Walsh moved for approval of the minutes of the Annual Meeting of the Board of Trustees of the Galveston Wharves held July 30, 2012. Motion was seconded by Trustee Smecca and unanimously carried.

Vice Chairman Walsh moved for approval of the minutes of the Regular Monthly Meeting of the Board of Trustees of the Galveston Wharves held July 30, 2012. Motion was seconded by Trustee Manlove and unanimously carried.

Vice Chairman Walsh moved for approval of the minutes of the Special Meeting/Goals and Objectives Workshop of the Board of Trustees of the Galveston Wharves held July 30, 2012. Motion was seconded by Trustee Hoskins and unanimously carried.

Trustee Hoskins moved for approval of the minutes of the Special Meeting of the Board of Trustees held August 16, 2012. Motion was seconded by Trustee Smecca and carried, with Chairman Bassett and Trustee Legg abstaining from vote as they were absent from this meeting.

**Minutes of the Regular Monthly Meeting of the
Board of Trustees of the Galveston Wharves
Monday, April 23, 2007**

Minutes of the Regular Monthly Meeting of the Board of Trustees of the Galveston Wharves held Monday, April 23, 2007 in the Galveston Wharves Board Room, 8th Floor Shearn Moody Plaza, 123 Rosenberg, Galveston, Texas.

The Secretary to the Board called roll. Chairman Holland declared a quorum of the Board of Trustees present and called the meeting to order at 9:27 a.m., Monday, April 23, 2007.

Presiding Officer: Benny Holland, Jr., Chairman

Present:	Benny Holland, Jr.	Gerald A. Sullivan
	John Eckel	Robert Hoskins
	Mayor Lyda Ann Thomas	John Tindel

Others:	Steven M. Cernak	Wm. Hulse Wagner
	Michael J. Mierzwa	John G. Peterlin, III
	Bernie Curran	R. Wayne Byrd
	Angelina Ramirez	Judy K. Sponge

Visitors:	News Media	Tad Humphreys
	Stretch Lewis	Tim Beeton
	Matt Haidinyak	Stefano Boryone-Pinna
	Ed Engle	Bill Ross
	News Media	

Chairman Holland called for the declaration of conflicts of interest by members of the Board of Trustees. Chairman Holland stated that he would declare a conflict under Agenda Item E-4 because he represents the ILA who has a contract with the Port's stevedores; although he did not believe he actually had a conflict of interest, asking the Port's attorney if in fact he had a conflict. Mr. Wagner responded that he did not believe that the Chairman had a conflict of interest at this time by State law, but if it made the Chairman feel more at ease on this item, he could abstain on the issue. Trustee/Mayor Thomas stated that although she did not have a valid conflict of interest under Agenda Item E-1 on the Portfolio which is presented by Frost Bank/Kempner Capital Management, she preferred to abstain on that agenda item.

The Board, Staff and Visitors recited the Pledge of Allegiance.

Chairman Holland referenced the presentation item on the agenda. Chairman Holland and Mr. Cernak presented a Certificate of Achievement for Excellence in Financial Reporting for 2005 from the Governmental Financial Officers Association to Mr. Byrd

Chairman Holland called for the Consent Agenda. Trustee Eckel stated that the Finance Committee met this morning and reviewed the consent agenda, but the Committee also heard a presentation from the Frost/Kempner Capital Management on investments, so that restricted the time available to thoroughly review the consent agenda. *The Finance Committee reviewed all of the agenda items with the exception of D-2 – Consider Financial Statements, which is covered adequately in the Port Director's Report. Finance Committee Chairman Eckel stated that the Finance Committee reviewed Agenda Item D-6 Monthly Delinquent Accounts Receivable Analysis wherein there is still a delinquency with EZ Cruise Parking and further discussed the Port's policy on equal treatment of all transportation companies that take passengers from parking locations into the cruise terminals and back to their vehicles. There have been complaints in the past that the Board has not enforced the restrictions equally, but to avoid possible criticism on this point the Finance Committee is presenting a motion that staff take action on EZ Cruise Parking and any other delinquent company to require that they bring themselves current. If any company fails to bring themselves current, then that company will be denied access to the Port and Finance Committee Chairman Eckel so moved. Motion was seconded by Vice Chairman Sullivan and unanimously carried. Finance Committee Chairman Eckel stated that there was one additional motion under this item and moved that all business entities that have access to Port property, including transportation servers, have proof of liability insurance furnished to the Port and if they do not they also would be denied access to Port property. Motion was seconded by Vice Chairman Sullivan and unanimously carried. Finance Committee Chairman Eckel stated that the remainder of the items on the Consent Agenda are recommended to the full Board for approval, which include Consent Agenda Items D-1 Board and Staff Expense Reports, D-2 Financial Statements which were explained in the Port Director's Report, D-3 Port Investments Report, D-4 Bank Reconciliation Report and Schedule of Internal Fund Balances, D-5 Comparison of Cash Flow for the Month, D-6 Monthly Delinquent Accounts Receivable Analysis and D-7 Vendor Check Register Report. There was no action required on D-8 Trade Development. Motion was seconded by Vice Chairman Sullivan and unanimously carried.*

Chairman Holland called for business items.

E-1 Discuss and Consider Portfolio Performance Analysis Report, Summary of Investment Performance Report and Investment Detail of the Galveston Wharves Pension Plan for the Period Ending March 31, 2007, and Discuss and Consider Any Percentage Changes in Fund Mix That May Be Necessary to Increase Results:
 Finance Committee Chairman Eckel stated that Mr. Shrub Kempner and Mr. Freddie Meier reported to the Finance Committee this morning. There were no changes recommended in the present percentages and Mr. Kempner and Mr. Meier feel that there is a good percentage margin of safety. Chairman Holland added that the actuarial assumption is 7% and 11% was made over a twenty year span. The Port is doing quite well. *Finance Committee Chair Eckel moved acceptance of the report as presented.* In discussion, both Finance Committee Chair Eckel and Vice Chair Sullivan agreed that future reports from Mr. Kempner and Mr. Meier be given to the full Board, as the nature

**PORT OF GALVESTON
REQUEST FOR DISCUSSION AND
TRUSTEES ACTION**

**MINUTES
ITEM – B-1**

PREPARED BY: Michael J. Mierzwa Port Director October 20, 2014


SUBJECT: Minutes – Regular Monthly Meeting of the Board of Trustees held
Monday, September 22, 2014

BACKGROUND: Attached are the minutes from the Regular Monthly Meeting of the Board
of Trustees held Monday, September 22, 2014.

ADDITIONAL INFORMATION ATTACHED: No _____ Yes x

RECOMMENDATIONS: Port staff respectively requests Board approval of the minutes from
the Regular Monthly Meeting of the Board of Trustees held
Monday, September 22, 2014.

Respectfully Submitted By:



Michael J. Mierzwa, Port Director

DATE ACTION TAKEN: _____

Approved: _____
Disapproved: _____
Deferred To: _____
Incorporated into Minutes: _____

Motion By: _____
Seconded By: _____
Unanimous: Yes _____ No _____
By: _____

**Minutes of the Regular Monthly Meeting of the
Board of Trustees of the Galveston Wharves
Monday, September 22, 2014**

Minutes of the Regular Monthly Meeting of the Board of Trustees of the Galveston Wharves held Monday, September 22, 2014 in the offices of the Port of Galveston on the 8th Floor of the Shearn Moody Plaza, 123 Rosenberg, Galveston, Texas.

Chairman Holland called the meeting to order at 9:26 a.m., Monday, September 22, 2014.

The Secretary to the Board called roll.

Presiding Officer: Benjamin F. Holland, Jr., Chairman, Board of Trustees

Present: Chairman Benjamin F. Holland, Jr. Vice Chair Edward J. Walsh, III
Trustee Richard D. DeVries Trustee Albert P. Shannon
Trustee John A. Smecca Trustee Gerald A. Sullivan (A)
Trustee/Mayor James D. Yarbrough

Others: Michael J. Mierzwa Hulse Wagner
Peter Simons Tony Brown
John G. Peterlin, III Bernard A. Curran
Roger R. Quiroga Mark Murchison
Robert Pierce Diane Falcioni
Cristina Galego Angie Ramirez
Jeffrey Thomas Judy K. Esponge

Visitors: Christopher Breaux William Wachel
George Templeton Christina Halderman
Kimberly Bland John Banse
Bryan Bradley Charles Tompkins
Cindy Tompkins Jason Hayes
Kathleen Eisbrenner Ray Eisbrenner
Shaun Davison Doug Gilman
Elizabeth Beeton Sylvia Robledo
News Media

Chairman Holland called for the declaration of conflicts of interest. No conflicts were noted by the Board of Trustees.

Chairman Holland called for the presentation by Shaun Davison, Director – Development for Next Decade and Kathleen Eisbrenner, CEO of Next Decade. Mr. Davison stepped up to the podium and began his presentation. A copy of the slide presentation on the proposed Pelican Island LNG facility - Pelican Island Opportunity Summary - is attached as part of these minutes.

to get from somewhere in the Rockies to the site is approximately \$1.7 billion – about a 250 mile distance. It is a \$3 – 4 - 5 billion project. This project is in the billions and Mr. Davison stated that they will be in that range somewhere. The magnitude of the re-gas facilities tends to be from \$750 million to \$1 billion. Mr. Davison stated that this project is of a much larger magnitude.

Chairman Holland thanked Mr. Davison for his presentation to the Trustees.

Chairman Holland called for comments from the public, noting that he had received several requests, and asked Mr. George W. Templeton to step up to the podium.

Mr. Templeton thanked the Trustees for allowing him to address the Board. Mr. Templeton stated that he lives at 2214 32nd Street in Galveston and is an owner with Lighthouse Cruise Parking.

Mr. Templeton stated that he heard some good things this morning, referencing businesses who want us to shop local, and stay local, and Mr. Templeton understood that. Mr. Templeton stated that he has twenty-two people with his company who work here locally. Mr. Templeton stated that ... “he just can’t accept the 261% increase on his costs, Benny, just to arbitrarily throw a number out there ... when they had an agreement to go with the \$8 and the CPI Index”. Mr. Templeton stated that now the ballpark has changed. Mr. Templeton stated that they “went to mediation the other day. You wanted to make it personal. You said we don’t want to do this, but I want to make it personal.” Mr. Templeton continued, stating “well, Mr. Holland, if you want to make it personal I’m here for you.”

Chairman Holland responded to Mr. Templeton, stating that he did not say that he wanted to make anything personal. Mr. Templeton answered that that ... “ain’t what you said in the meeting”, stating that he did not want to go into discussion right now.

Mr. Templeton stated that they employ a lot of people here, and that they do a lot of good for this island. Mr. Templeton stated that they are beat up, they are chased around, rules are changed on them every month or so, and they are not going to go away. Mr. Templeton stated that they took derelict properties and put them on the tax rolls and they put people to work, noting that one of the properties is the old ILA Hall. When the ships started coming y’all had to leave that property because that is a bad place, Mr. Templeton stated, noting that they moved out on Harborside, a nice new place out there. Chairman Holland noted that that is not totally correct. Mr. Templeton responded that it is pretty close, and that we can argue that anytime.

Mr. Templeton continued, stating that “it is just not fair, Guys”. Mr. Templeton stated that “we are in a position where you have labor running management, and it is kinda ass-backwards sometimes. I am not picking on you.” Chairman Holland noted that “he was use to that, Sir”. Mr. Templeton referenced respect, and that he knew where they all come from and that he was not afraid of that. Mr. Templeton stated that we cannot have a personal vendetta against some good friends of ours that do support this just to come in

and arbitrarily change it for three companies. Mr. Templeton stated that it is just not fair, and noted that if you come back and have a fair deal, they will be glad to go with it.

Mr. Templeton stated that he came to the meeting today to let the Board know that his counsel approached the Wharves Board's counsel and they made an offer that he could not stand behind, so he was going to rescind any offer that his counsel may have made to the Wharves Board's counsel. Mr. Templeton wanted the Board to know that he would do anything, even if he had to get a blimp up and bring the people over. We are going to keep our people employed, and we are going to stay on the tax rolls and keep Galveston going, Mr. Templeton stated. (Mr. Templeton reached his 3 minute time limit at this point.)

Chairman Holland stated that the Port wants to keep the parking lots here, but what is lost in the transaction is the reason that you are here is because of that ship out there, asking if that was correct. Mr. Templeton responded that that was understood. Chairman Holland continued, stating that if the Port cannot keep that ship here, then the parking lots will not be here anymore. Mr. Templeton responded that that was fair enough. Chairman Holland stated that the Port must have enough money to operate this Port so that we can dredge that Channel, so that we can build those facilities, so that Port can attract those ships so that you can make a living. Mr. Templeton inserted ... well, let's take it line by line. Chairman Holland continued, stating that what the Board is doing is looking at the total cost and looking at the fact that we know what it costs to operate that, and the parking lots have to pay their fair share or else, and that is it. Chairman Holland noted that we have the lawsuit and that is enough. The Chairman thanked Mr. Templeton stating that he appreciated him coming in.

Chairman Holland next referenced Mr. John Banse of Lighthouse Parking, who had also submitted a request to address the Board of Trustees. Mr. Banse stated that George is on a roll and doing well and that he would give Mr. Templeton his time.

Mr. Templeton stated that he was not trying to upset anybody. Chairman Holland responded that Mr. Templeton was not upsetting anybody. Mr. Templeton stated that we have opinions all across this table.

Mr. Templeton addressed Trustee Smecca, stating that ... "Mr. Smecca don't think that we pay our people enough to eat at your restaurants". You said that here in the Board Room. "We don't eat there because we choose not to" ... Mr. Templeton stated. Trustee Smecca stated that he will respectfully say that you got bad information. Mr. Templeton responded that he was ... "sitting right over there when you said it, Sir". Trustee Smecca stated that he would tell Mr. Templeton that if there is anybody who can eat at my restaurants, they are the minimum wage employees that can eat there. Mr. Templeton responded that 80% of Galveston needs to be able to afford to eat at Mr. Smecca's restaurants. Mr. Templeton stated that he will adjust for that if he is wrong.

Mr. Templeton stated that they have other things, noting for example the Discount Cruise Parking out on Harborside, questioning if they are paying anything, and stating that they sure are not in the scale that he is in, and asking if Discount Cruise parking is going to

\$28.88. Mr. Templeton stated that it is not across the board, and it is not going to fly. Mr. Templeton stated that this isn't going to work, and that he will stand up and fight this to the last ounce of breath that he has. Mr. Templeton stated that he hoped that Mr. Holland appreciated that because Mr. Templeton did respect him.

Chairman Holland responded that when Mr. Templeton was talking about fighting you are talking to a fighter, and the Chairman stated that the Port did not have a problem with that. Chairman Holland noted that we are on the same page. We have a lawsuit. Chairman Holland continued, stating that nobody wants people to be treated more fairly than he does, noting that that is what he does for a living. Chairman Holland stated that he takes care of working people, and that is his job.

Mr. Templeton wanted the Guidry News to go back to when your Local President goes and meets with your counsel, or a member thereof, referencing Teddy O'Rourke. Chairman Holland stated that Ted O'Rourke is not the Local President and that is why he is not there anymore! Mr. Templeton understood, stating that you take "him", and you take your MAPA officials and you go and get all of his numbers from his company and discuss them and put it in the paper with the Guidry News, and then want to tell Mr. Templeton that you don't know his financial numbers, with Mr. Templeton asking ... "are you kidding me". Mr. Templeton stated that your counsel had it in their office for eight months. Mr. Templeton stated that his name is Mr. Hughes, stating that he thought that that was one of the MAPA partners over there, or associates - Mike. Mr. Wagner responded that Mike Hughes is associated with MAPA.

Chairman Holland noted that Mr. Templeton's time for comments had expired.

Chairman Holland called for the approval of the Regular Monthly Meeting of the Board of Trustees held August 25, 2014. *Vice Chairman Walsh moved approval of the minutes of the Regular Monthly Meeting of the Board of Trustees held August 25, 2014 as presented. Motion was seconded by Trustee Shannon and unanimously carried.*

Chairman Holland announced that the Trustees were going into Executive Session pursuant to Texas Government Code Section 551-071 Consultation with Attorney. The time was 10:03 a.m., Monday, September 22, 2014.

Chairman Holland convened the Executive Session at 10:08 a.m., Monday, September 22, 2014.

Chairman Holland recessed the Executive Session at 11:52 a.m., Monday, September 22, 2014.

Chairman Holland reconvened the Regular Monthly Meeting at 11:56 a.m., Monday, September 22, 2014, and called for the remainder of the Business Items.

Chairman Holland called for the Port Director's Report.

The Vice Chairman questioned if the same passenger walkway will be used. Mr. Mierzwa responded yes, that that was the purpose of doing the project this way. Mr. Mierzwa continued, stating that right now, because of the nature of the terminal, besides being too small, it also has a single point of failure with respect to trying to get people either on the ship or off the ship, because there is only one escalator and invariably about once a month someone will be taking their oversized bag down the escalator which results in damage to the escalator. Now, besides additional escalators to get passengers up and down, the Port will do as they did at Cruise Terminal No. 1 and install a ramp. So even with a complete power failure, the Port will still be able to get people up and down to where they can get on the ship and the Port will have the loading bridges on emergency generators, Mr. Mierzwa stated.

Motion unanimously carried.

E-4 Discuss and Consider Amendment of Tariff Circular No. 6, Item 111, to Include, but Not Limited To, the Following Changes (i) Rescind the Effectiveness of Increases in Certain Access Fees Calculated on a "Per Space" Basis, (ii) Delete the Assessment of Access Fees for Certain Users Calculated on a "Per Space" Basis, so that Access Fees for All Users Will Be Calculated on a "Per Trip" Basis, and (iii) Amend Decal Fees for Certain Users: Mr. Mierzwa stated that the Port has been talking about access fees and private parking lot fees for the better part of almost two years now. In May 2014, the Board passed an Amendment to the Port's Tariff, which in addition to including changes to insurance requirements, decal fee amounts, application fees, and parking for charter buses, among others, it also adjusted the per parking space fee from \$8 per parking space to \$28.88 per parking space.

The Port was taken to court by the private parking lot operators who also filed a complaint with the Federal Maritime Commission on a concurrent suit, stating in effect that the access fee was excessive and that the application of the Tariff item was discriminatory and provided for disparate treatment of Port users receiving services provided by the Galveston Wharves.

Mr. Mierzwa continued, stating that based upon experience the Port had as a result of the recent mediation, and the fact that it appeared that the Port was treating the private lot operators unfairly by charging them a per space fee that differed from hotel-motel shuttles where the Port was charging an access fee (per trip charge), and in the interest of treating everyone equally, this Amendment would now treat everyone the same and charge everybody an access fee, which is a graduated access fee depending upon the size of the vehicle that you are bringing into the Port.

The Port Director clarified that the statement in the Tariff that references the per space charge will be deleted. The current language in the Tariff that talks about per trip charges will not apply to the private parking lot operators, and this will become effective October 1, 2014. Vice Chairman Walsh added that this applies to everyone in the same manner.

Vice Chairman Walsh moved to ratify the Amendments to the Board of Trustees of the

Galveston Wharves Tariff Circular No. 6 as discussed and submitted. Motion was seconded by Trustee Shannon.

Trustee DeVries questioned if the Port goes with this basis/access fee, with Port staff doing major calculations for a year and a half to determine how much the Port needed to assist the Port with for the cruise terminals and cruise expenses, etc., and the Port figured out how much was needed based on the \$28.88 per space per month, which Trustee DeVries believed was left off in the previous statement, which Mr. Mierzwa noted was correct, and Trustee DeVries added not per day, stating that he had not seen financial projections on the per trip basis. Trustee DeVries asked if the Port was going to digress from the amount the Port needed, or will this per trip basis keep the Port even with the amount of \$28.88 per space.

Mr. Mierzwa stated that Port staff has done a small sample, noting that Port staff has been out at the terminals for several cruises, actually counting how many times the different private lot operators have accessed the Port on both weekday and weekend-Sunday cruises. The feeling from the staff is that this \$20 will get the revenues that the Port sought when the Port went to the \$28.88 per space per month. However, Mr. Mierzwa stated, he had no idea what the private parking lot operators will do now that they will actually be charged for this and whether they will consolidate their trips or what their plans are. Mr. Mierzwa stated that what he will promise to the Board, and he will also promise to the parking lot operators, is that at this time next year when Port staff is developing the 2016 budget, Port staff will look at the same things that were looked at when they determined the per parking space fee, the expenses of what it costs the Port to run the cruise ship operations, the money that the Port is getting from the access fees, and the money that the Port is paying in to offset the delta that the Port has between these expenses - this is what we are making from our cruise line operating agreements, and this is the delta that needs to be paid for out of parking. The Port will take a look at the revenues generated and adjust the fees either up or down accordingly when the 2016 budget is developed. The Port Director acknowledged that he needed a year to look at the numbers before he can come back to the Trustees with an Amendment to the Tariff.

Trustee DeVries questioned if this action would capture some of the parking lots outside of this area that have not been paying on a per space basis. Mr. Mierzwa responded that that was not correct. The Port Director stated that that was alluded to in the public comments earlier in today's meeting, but that is not true. There are lots out there that are not part of the lawsuit, but have been paying the Port the \$28.88, Mr. Mierzwa stated.

Trustee DeVries continued, questioning if the Port would capture any money from the business next door. Mr. Mierzwa responded that the Port will not capture any money because they are not accessing the terminal, and the Port does not capture any money from a park and walk operation. Trustee DeVries stated that that does not seem fair to everyone else. Mr. Mierzwa clarified that this is an access fee for companies bringing their vehicles onto the Port.

Mr. Simons stated that for the record, the access fee working group will continue to look at these issues. Mr. Simons noted that the Port still has enforcement issues and the issue

of how the Port will deal with the operator on New Strand. With respect to the Tariff, Mr. Simons stated that the consensus was that the Tariff could not reach that operator because that operator is not accessing the Port's property.

Captain John Peterlin noted that this Tariff item changes the per space fee that was brought from \$8 to \$28.88 back to \$8 per space per month until October 1, 2014, at which time the trip fee charge for everyone will take effect. Mr. Mierzwa added that as a result of the lawsuit, there has been some escrow money that has been put into the court registry by the three plaintiffs in the case. That money will be returned to them.

Chairman Holland asked about the money for the ones who have been paying, asking if they will receive their money back also. Mr. Mierzwa responded yes. The Chairman questioned if that was included in the motion. Vice Chairman Walsh responded yes, that that is all in the motion, and asked that Counsel clarify this action.

Mr. Wagner responded that the adoption of the change in the Tariff explains everything that has been said. The people who have paid too much money, when they should have paid less money, are due a refund. The people who have been involved in the litigation have paid the right amount of money under the new Tariff, but paid extra into the registry of the court, and they would be entitled to that money back. Vice Chairman Walsh questioned if anything extra needed to be included in the motion itself to affect that refund as it is included by adopting the Tariff.

Chairman Holland clarified that all the Port has been doing in the last three months that the Port has been working on this is trying to find a way to keep the cruise ships coming to Galveston and pay for them to keep coming, and this is all the Port is trying to do. The Chairman stated that the Port must generate revenue to somehow do that and parking is one of the segments of revenue that the Port needs to continue to bring cruise ships into Galveston, noting that the cruise ships are one thing that everyone in Galveston likes. The Strand likes them, the longshoremen like them, the parking lots like them, the Chairman stated that we all like them because somebody gets something out of it...the hotels, the restaurants, etc. The cruise ships are the one thing that we do as a Port that the Chairman believed the whole City gets an advantage off of. The Port needs to keep the ships coming, and the Port needs to find a way to do it, and the only way to do it is to generate revenue, and this is one of the forms of revenue that the Port has to have in order to make it work. As distasteful as it may be to some people, Chairman Holland stated, he hoped that they understood, because without the cruise ships none of us have a job, and we must keep that in mind.

Motion carried with Trustee DeVries opposed.

E-5 Discuss Primary and Excess Liability, Automobile Liability, Public Officials/Employment Practices Liability and Fiduciary Liability Insurance Policies, which are Scheduled for Renewal Effective October 1, 2014 at Premiums Totaling Approximately \$190,000: Mr. Curran stated that the agenda item request is at a premium totaling approximately \$190,000, noting that Port staff put that amount in as a